The Fiqh of Marriage in the Light of the Quran and Sunnah

Covering the Dower, Wedding Night, Wedding Feast and Rights of the Husband and Wife

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Translator's Introduction

In the name of Allah, Most Compassionate, Most Merciful

All praises are due to Allah; we praise Him; we seek His help; we seek His forgiveness; and we seek His guidance. We seek refuge in Allah from the evil in our souls and the badness of our deeds. For whomever Allah guides, there is none to lead him astray. And for whomever He allows to go astray, there is none to guide him. I bear witness that there is none worthy of worship except Allah, for whom there is no partner. And I bear witness that Muhammad is His servant and Messenger.

The vast majority of Muslims will get married at one time or another in their lives, if they have not already done so. Marriage is definitely one of the most important events that takes place in one's private life. However, like all other aspects of one's life, one must be careful to follow the proper steps when it comes to marriage. One must be guided by the laws of Allah when it comes to the marriage proposal, seeing the prospective bride, the marriage contract, the marriage ceremony, the dower and so forth. Too many times these issues are ruled not by Islamic law but by the prevalent customs of the people. The customs have become the standard to such an extent that many people are not aware that some of those customs are in contradiction with what the Quran and sunnah have laid down as guidance for mankind. The situation has sometimes deteriorated to the point that when people are told of the true teachings of Islam concerning marriage, they reject it as something foreign and alien to what they have come to know as "Islam."

It is imperative that all Muslims return to the Quran, sunnah and Islamic fiqh to guide them in matters related to marriage. Every aspect of a person's life should be guided by the revelation and guidance that has come from Allah. This is true for everything from the way the government runs to how a person treats his or her own spouse. No action

falls outside of the watchful view of Allah and, hence, no action falls outside of the guidance of His religion.

Dr. Saalih ibn Ghaanim al-Sadlaan (may Allah reward him and preserve his life) has striven to remove much of the mistaken notions concerning married life in Islam. He has written three small but excellent works that cover some of the most important aspects of marriage. One of these works concerns marital discord (*al-nushooz*). A second work, of which a new edition is currently being prepared, deals with "pre-nuptial contracts" or conditions in the marriage contract. The third work, which is now before the reader, is a more general discussion of the basic aspects of the dower, the marriage ceremony and wedding party, and the rights of the husband and the wife. It is hoped that these works will allow Muslims to understand and implement the guidance of Islam related to marriage. In doing so, they will lead themselves by the grace and mercy of Allah to the best way of life in this world and to Allah's pleasure in the Hereafter.

I would like to express my personal thanks to Shaikh Saalih al-Sadlaan for giving us the permission to translate this work and his other works. I would also like to thank Br. Homaidan al-Turki for his relentless efforts in getting these works published. I must also the sister, who prefers to remain anonymous, who edited and commented upon the manuscript. And last but not least, I would like to thank my beloved wife for her continual support, help and patience. May Allah reward all of them with a great reward in both this life and the Hereafter.

The translator,

Jamaal al-Din M. Zarabozo
Boulder, CO
January 25, 1999

Introduction to the Second Edition

All praise be to Allah who created for us spouses from our own selves and has placed between us love and mercy. That is one of His great signs.

Peace and blessings be upon the one to whom his Lord said, "We have sent messengers before you and We made for them wives and offspring" (*al-Raad* 38), our Prophet Muhammad. Upon him be the best of blessings and most complete peace.

To proceed:

Since the issues related to married life, wedding feasts and consummation are among those issues for which people need explanations with *shareeah* evidence, I thought it good to write about what every Muslim should know concerning these matters.[1]

I have joined together two of my books in this research that is in front of you. Those works covered the dower, wedding party, manners related to the night of the wedding and the obligatory rights of each spouse. I have also added discussions clarifying some of the negative aspects and mistakes that some people commit concerning those topics.

This is the second edition of this book. The necessary corrections to the first edition were made. Care was also taken to discuss the sources of the hadith and to clarify matters that needed to be clarified. In addition, some new topics were discussed.

This is my striving and Allah is the one to be asked to make it beneficial when it goes back to Him. And He is the one to be asked to

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[1] We have written two other books related to marital issues. These are *al-Shuroot fi al-Nikaah* ("Conditions in the Marriage Contract"), which was completed in 1391 A.H. and for which a second edition is under preparation, and *al-Nushooz* ("Marital Discord") which was completed in 1412 A.H. [By the grace and mercy of Allah, *al-Nushooz* has been translated into English and published by al-Basheer Company for Publications and Translations. The other work, *al-Shuroot*, is a future project, Allah willing, of al-Basheer Company.—JZ]

make it on the scales of my good deeds on the day in which wealth and children will not avail anyone except for the one who comes to Allah with a pure heart. And may the peace and blessings be upon our Prophet Muhammad, his family and all of his Companions.

Saalih ibn Ghaanim al-Sadlaan
(may Allah pardon him, his parents and all Muslims)
2/15/1416 A.H.
Riyadh, Saudi Arabia

Introduction to the [First Edition] of the Book

There came over woman a period of time in which her situation was restless. Her affairs were not calm at all. She was helpless and feeble. Her rights were stolen from her. She was robbed of her very will, smashed of her soul. She was being overpowered in her affairs, despised in her place and dependent upon others with respect to her own dealings.

The Roman husband could have her put to death whenever he willed. The Greeks considered her a piece of chattel. The Jews despised her and considered her something impure. Worse than that, the Christians were at a loss concerning her, not knowing if she were a human with a soul or without a soul. Finally, she was taken as a bad omen, which resulted in female infanticide, as was the case with the Arabs in the Days of Ignorance.

After all of that misery that she had to taste and all of that suffering that her heart had to swallow throughout the ages, the light of Islam shined and established the balance of truth for the honor of women. Islam gave her all of her rights, without any shortcoming. It raised her being from the shackles of disgrace that she had been facing throughout history. Islam announced her complete humanness and her qualifications for complete rights. It also protected her from being the plaything of desires and the trial of being simply a source of sexual, animalistic enjoyment. It made her an active component in furthering the society, in holding it together and keeping it wholesome.

The fundamental reforms and *shareeah* rights brought about by Islam included her receiving rights over her husband, in the same way that he has rights over her. These rights also include:

The dower: This is property exclusively for her possession and is one of her rights, as a token of respect for her and as a symbol of her worth and indispensability. It does not mean that she is a piece of merchandise that one buys. Instead, it is a symbol of honor and esteem.

It is also a sign of affection and a builder of the ties of love and mercy. It is also something that takes into consideration the woman's natural desire for possessions and adornments. It is also a clear sign of the husband's determination to bear the responsibilities of marriage and to fulfill her rights. It is like a first step in the many practical steps to improve the situation of the wife and to make her realize her place in society and to make her realize that [as a wife] she is something sought after and wanted.

For those and other noble purposes, the value of the dower over the years was always something simple and easy upon the people. It was always something that was available at that time, place and environment. However, when the level of faith decreased, customs began to dominate the people and the people became richer; consequently, modern-day civilizations became filled with matters that never existed before. The people invented innovations and evil practices that have no tie with Islam whatsoever, nor with their blood or reasoning.

Among those innovations and evil new practices are some of the things that take place during the proposal stage, such as the man and woman being alone together, the wearing of engagement rings and very expensive dowers with all of the societal problems that such dowers have caused. Things might even change before the proposal is completed.

Among those innovations are also what occurs at the time of the wedding: extravagance, pomp and boasting over the wedding party and dinners, announcing the wedding according to customs that are improper, such as with singing and dancing, honeymoons and so forth.

The reader shall find in this book, by the help of Allah, details concerning all of those phenomena and their cures in the light of the Quran, sunnah and statements of the scholars, past and present, based on evidence, ending with the strongest opinion and the reason it is the strongest.

In order for the key aspects of this book to be clear and to bring forth its benefits in the best way, I decided to arrange the book in the following manner:

First: The dower— the reader will find the details of its fiqh rulings in their proper places in the book.

Second: Announcing the wedding— its meaning, how it is to be done and related matters.

Third: The wedding dinner— and the customs that have been tied into it as well as a detailed fiqh discussion of many issues related to this topic.

Fourth: Giving congratulations upon a marriage— its ruling and how it is to be done as well as customs and negative aspects that have been related to it.

Fifth: A message concerning a problem and its cure.

Sixth: Manners concerning the wedding night and marital relations.

Seventh: The rights of spouses.

It is hoped that the benefit of this work will be general. And Allah is the guide to the straight path.

Dr. Saalih al-Ghaanim al-Sadlaan
Riyadh, Saudi Arabia
1412 A.H.

Chapter One
The Dower and Related Fiqh Issues

The Types of Rights of the Wife Upon Her Husband

The wife has specific rights upon her husband that are the result of a sound marriage contract. Some of the rights are material rights while others are non-material.[1]

From the material rights of the woman is the dower (*al-sadaaq* الصداق). It is also called "*al-mahr* (المهر the dower), *al-nihlah* (النحلة the gift), *al-fareedhah* (الفريضة, the obligation), *al-hibaa* (الحباء the gift), *al-ajr* (الأجر the compensation), *al-iqr* (العقر the payment), *al-alaaiq* (العلائق the bond), *al-sadaqah* (الصدقة the charity), *al-taul* (الطول bounty or gift), *al-kharas* (الخرس feast), and *al-nikaah* (النكاح marriage)."[2]

The reason it is called *al-sadaaq* "is because one feels the husband's sincerity in wanting to marry that woman.[3] In the laws before us, the guardians would receive the dower."[4]

The Lexical Meaning of *al-Sadaaq* (the dower)

The *sadaaq*— it is better known as *sadaaq* than *sidaaq*— is an exchange. It is said that it is an honoring for the wife. The plural is

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[1] These shall be discussed, by the help of Allah, in the discussion of spousal rights.
[2] *Haashiyataa Qalyoobi wa Umairah ala Sharh Minhaaj al-Taalibeen*, vol. 10, p. 275.
[3] [The words *al-sadaaq* (dower) and *sidq* (sincerity) came from the same three letter stem. That is why the author stated the above.—JZ]
[4] *Subul al-Salaam*, vol. 3, p. 311.

"*asdiqah* for small plurals (from three in number to ten) and *suduq* for larger numbers."[1]

What Requires the Giving of the Dower

The term *sadaaq* or *mahr* applies to everything that is required to be paid due to a [marriage] contract, sexual intercourse, or in the case of forced separation, such as due to having the same breastfeeding mother or the witnesses taking back their statements.

Technical Definition of Dower

As a technical, legal term, the dower is defined as, "something given in exchange for marriage or something similar, be it required by the judge or by agreement among the two parties."

The Wisdom behind Instituting the Dower

Islam has legislated the giving of the dower by the husband to the wife in order to make the woman's heart pleased and to honor her. It is also meant to bring an end to what was done in the Days of Ignorance wherein she was wronged, exploited, despised and robbed of her wealth. The dower is a right exclusively for the wife. It is her possession and none of her guardians or relatives share any part of it. No one has any power over her concerning how she wishes to dispose of it, as long as she does so in a legally acceptable manner. She may give it away as a gift, she may lend it to others or she may give it in charity or do any other permissible acts she wishes with it.

The dower was instituted because the goal of marriage is not the actual act [of the marriage contract in] itself. In fact, the actual purpose of marriage cannot be achieved unless the spouses stay in a state of marriage. However, that may not be achieved unless the dower is an

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[1] *Al-Raudh al-Muraba Sharh Zaad al-Mustaqni bi-Haashiyah ibn Qaasim*, vol. 6, p. 363.

obligation at the time of the marriage contract itself. In this case, when there come times that may lead the man to divorce his wife, such as estrangement or coarse behavior, the husband would not be willing to divorce his wife due to just the slightest act of rudeness that occurs. If it were not for the dower that was required due to the contract itself, it would be very easy for him to leave her. Therefore, the goals of marriage would not be met as the goals and benefits of marriage are only met when the two are in accord and agreement with one another but that accord will not come about unless the women is something honored and special to the husband. But such honor will not come about unless he had to give up something important to him. This is because what is most difficult to achieve is most special to the person while what is easy to achieve becomes something insignificant to the person. Therefore, if the wife is not something special in the eyes of the husband, then he will dispose of her at the first sign of unhappiness, the accord will not occur and the purposes of marriage will not be achieved.

What we see happening in some European countries— in fact, in some Muslim countries— is very strange indeed. This is where the woman is required to furnish a dowry or provide the furniture for their future house. This is definitely turning the natural order of things upside down and goes against the nature of mankind. It leads to a great deal of social ills and behavioral harm. It is a means by which the woman is despised and belittled. Indeed, she is ruined because of it. If the woman is not able to gather enough wealth together for marriage, she will not be able to get married and, instead, will have boyfriends and affairs and other evil results.

Such a practice contains a great deal of evil and harm for the society; this practice may even bring about society's end soon. There is a great difference between the case where the woman feels that she and what she possesses belong to her husband and where she feels that she is something desired and honored, as the fiance spends money on her and gives her presents and so on to get her as his wife.

All praises are due to Allah who raised the position of the woman while other laws and systems belittle her and degrade her honor.

The Ruling Concerning Stating the Dower at the Time of the Marriage Contract

It is a sunnah (recommended act) to state the dower at the time of the marriage contract in order to prevent any future dispute or argumentation. This is based on Allah's statement,

وَأُحِلَّ لَكُم مَا وَرَاءَ ذَلِكُمْ أَنْ تَبْتَغُوا بِأَمْوَالِكُمْ

"All others [women other than those stated in the verse] are lawful for you provided you seek them [with a dower] from your wealth" (*al-Nisaa* 24). And the Messenger of Allah (peace be upon him) said to the one who was to marry the woman who had offered herself to the Messenger of Allah (peace be upon him),

الْتَمِسْ وَلَوْ خَاتَمًا مِنْ حَدِيدٍ

"Seek something [to give her as a dower] even if it be a ring made of iron."[1]

The scholars are agreed that it is sanctioned to state the dower at that time but it is not a prerequisite for the validity of the contract.[2]

The Status of the Dower

The dower is not a prerequisite or an essential component of the marriage contract. Instead, it is one of its rulings and a requirement of a sound marriage. Therefore, a small amount of uncertainty concerning it is overlooked as well as a small amount of potential harm that is expected to be removed. This is because the goal of marriage is bringing

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[1] Recorded by al-Bukhari in his *Sahih*, number 5078, The Book on Marriage, Chapter on marrying those in dire straits, and numbers 5029, 5030 and 5141. Recorded by Muslim (#1425), The Book on Marriage, Chapter on the dower.

[2] *Haashiyah al-Raudh al-Murabi bi-Sharh Zaad al-Mustaqni*, vol. 6, p. 364; *al-Ifsaah an Maani al-Sihaah* by ibn Hubairah, vol. 2, p. 135.

the two together and having the two enjoy each other. If the marriage contract is concluded without the mentioning of a specific dower, the marriage contract is still valid. In that case, the husband is required to give his wife a dower which is comparable to the dower that women who are similar to his wife receive, according to the agreement of the scholars.[1]

The evidence for this position is in Allah's statement,

لا جُنَاحَ عَلَيْكُمْ إِنْ طَلَّقْتُمُ النِّسَاءَ مَا لَمْ تَمَسُّوهُنَّ أَوْ تَفْرِضُوا لَهُنَّ فَرِيضَةً

"There is no sin upon you if you divorce women while you had not yet had sexual relations with them, nor appointed for them a dower" (*al-Baqara* 236). This verse permits divorce before consummation and before determining the dower. This indicates that the dower is neither a necessary component nor a prerequisite for the marriage contract.

In *Zaad al-Maseer*, ibn al-Jauzi stated, "The verse indicates that it is allowed to have a marriage contract without stating the dower."[2]

It is confirmed in the sunnah from Uqbah ibn Aamir who narrated that the Messenger of Allah (peace be upon him) said to a man, "Would you be pleased if I were to marry you to so and so?" He said, "Yes." Then he said to the woman, "Would you be pleased if I were to marry you to so and so?" She said, "Yes." So he married the two of them together. Uqbah consummated the marriage and did not establish any dower for her. When he was about to die, he said, "The Messenger of Allah (peace be upon him) married me to so and so and he did not state a dower for her and I did not give her anything. Therefore, I give her as the dower my share [of the war booty] in Khaibar." She took it and sold it for two hundred thousand [dinars].[3]

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[1] *Kashaaf al-Qinaa*, vol. 5, p. 144; *al-Badaai*, vol. 2, p. 274; *al-Muhadhib*, vol. 2, pp. 55 and 60; *al-Sharh al-Sagheer*, vol. 2, p. 449; and *al-Fiqh al-Islaami wa Adillatuhu* by Wahba al-Zuhaili, vol. 7, pp. 23 and 254.
[2] *Zaad al-Maseer*, vol. 1, p. 279.
[3] Recorded by Abu Dawood (#2117), The Book on Marriage, Chapter on one who marries and did not determine a dower until he dies. Its chain is *hasan*. Al-Haakim

Based on that, "if two spouses agree to get married without a dower, the marriage is valid according to the majority of the scholars, save the Malikis. When the marriage is consummated or when the man dies, she has the right to a dower that is comparable to the dower given to those women who are similar to her. According to the Malikis, if two agree to get married with a dower, the marriage is not valid."[1]

Conclusion

To state the dower at the time of the marriage contract is neither an essential component nor a condition for the validity of the marriage contract. This is because the dower is a resultant ruling that follows from the contract and it is not necessary to mention the rulings that are the result of the contract when the contract is actually being stated. This is also based on the previous evidence given. In *al-Mughni* it states, "Marriage is sound without the stating of the dower according to the vast majority of the scholars."[2]

However, ibn Taimiya has concluded that one should state the dower at the time of the marriage contract in order to avoid any dispute or confrontation. He also concluded that the dower is an essential component of the marriage and that the dower must be mentioned or she is to be given what is given to women similar to her. He wrote,

> Those who state that the dower is not a goal in itself are making a statement that has no truth to it. It is, in fact, an essential component of the marriage and it being a condition of it makes it a more important condition than the price [in a sale] for the Messenger of Allah (peace be upon him) said, "The conditions that have the most right to be fulfilled are those conditions that make the private

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recorded it in *al-Mustadrak* (vol. 2, p. 182), and he declared it *sahih*. Al-Dhahabi agreed with his assessment.

[1] *Bidaayah al-Mujtahid*, vol. 2, p. 52.

[2] *Al-Mughni*, vol. 6, pp. 680-681.

> parts lawful."[1] Wealth is permissible in exchange for other wealth. However, the private parts are not permissible for another except with the dower. A marriage can be enacted without stating or fixing the amount of dower but it cannot be enacted while negating the dower. For the marriage in which the dower is not stated, the dower then becomes the dower of a similar woman... What is confirmed in the Quran, sunnah and consensus is that a marriage can be enacted without fixing the dower. But it cannot be enacted while negating the dower. In fact, Allah has said, "Indeed, We know what We have enjoined upon them concerning their wives and whom their right hands possess" (*al-Ahzaab* 50). [Since the preceding portion of the verse] states that the Prophet (peace be upon him) may marry without a dower, it was made obligatory upon them to marry with a dower. This is what the Quran indicates in more than one place. There must be either a stated dower or a non-stated dower [but there cannot be a marriage if there is a refusal to accept the payment of a dower].[2]

Therefore, there are three possible scenarios:

One case is where the two agree upon not having a dower. This is not allowed and such a marriage contract is not valid.

A second case is where the dower is clearly stated at the time of the marriage contract. This is the normal, most complete [and best] case.

A third case is where the dower is not mentioned at the time of the contract. This is permissible and the women will then receive what women similar to her receive or whatever they may later agree upon.

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[1] Recorded by al-Bukhari (#5151), The Book on Conditions, Chapter on conditions for the dower at the time of the marriage contract, and by Muslim (#1418), The Book on Marriage, Chapter on fulfilling conditions and marriage.

[2] *Majmoo Fatawa Shaikh al-Islaam ibn Taimiya*, vol. 29, p. 344. [The above is not a translation of what is found in Sadlaan's work because the text has typographical errors that completely distort the meaning of ibn Taimiya's words. Hence, the passage was translated directly from the new edition of *Majmoo Fatawa*, vol. 15, part 29, p. 189. —JZ]

The Maximum Amount of Dower Allowed[1]

The jurists agree that there is no maximum limit to the dower, since there is nothing stated in the *shareeah* mentioning an upper limit. Allah says in the Quran,

وَإِنْ أَرَدْتُمُ اسْتِبْدَالَ زَوْجٍ مَكَانَ زَوْجٍ وَآتَيْتُمْ إِحْدَاهُنَّ قِنطَارًا فَلَا تَأْخُذُوا مِنْهُ شَيْئًا أَتَأْخُذُونَهُ بُهْتَانًا وَإِثْمًا مُبِينًا

"But if you intend to replace a wife by another and you have given one a *qintaar* (large amount of gold), take not the least bit back of it. Would you take it wrongfully without a right and in manifest sin?" (*al-Nisaa* 20).

The mention of a *qintaar* is not meant to place an upper limit to the dower but it is simply "a figurative expression implying a great amount."[2] It that were meant to state the greater limit to the dower, Allah would have prohibited us from going beyond that.

The Minimum Amount Allowable for a Dower

Concerning the minimum amount permissible for a dower, there are five well-known opinions.

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[1] The jurists have stated the maximum and minimum allowed dower in terms of dirhams and dinars because they were the monetary units common among the people in the past. Therefore, it would be good to discuss their origins and their weights in modern terms. Dirham is originally a Greek work, drachma, and it is a word for a silver coin that is equivalent to seven-tenths of a dinar. Therefore, in order to know the weight of a dirham, one must know the weight of a dinar. Dinar comes from a Latin-Greek term, dinariyus, and it was one of the most important coins used in the Islamic lands. Its weight in grams is 4.25 grams. Since a dirham is seven-tenths of that, its weight is 2.975 grams. See *Fiqh al-Zakaat* by Dr. Yusuf al-Qaradhawi, vol. 1, p. 259 (Muassasat al-Risalah, Lebanon, eighth edition, 1405 A.H.). [Sadlaan's text actual states 9.975, but that is obviously simply a typographical error.—JZ]

[2] *Nail al-Maraam min Tafseer Ayaat al-Ahkaam* by Muhammad Sideeq Khaan, p. 137 (Daar al-Raaid, Lebanon).

The first opinion is that a proper dower cannot be less than ten dirhams. This is the opinion of the Hanafis.[1]

The second opinion is that the minimum acceptable for a dower is three dirhams, a quarter of a dinar or what is equivalent in value to that of goods or of something pure and not impure, something that is considered wealth, assets or property from a *shareeah* perspective, something that may be permissibly benefited from, and not like a lute [which has no value according to the *shareeah*]. It must be something that one can hand over to the wife, whose amount, type and term is known and fixed. This is the opinion of the Malikis.[2]

A third opinion is that the dower is valid as long as anything which can be called wealth or its equivalent is given, as long as the parties mutually consent to it. This is the opinion of the Shafi'ees, Hanbalis, ibn Wahb of the Malikis, Ishaaq ibn Rahawaih, Abu Thaur, the jurists of the Madinah at the time of the Followers, al-Hasan al-Basri, al-Thauri, al-Auzaa'ee and Saeed ibn al-Musayyab.[3]

A fourth opinion is that anything which may be called "a thing", even if it is just a grain of barley, is acceptable as the dower. This was the opinion of ibn Hazm.[4]

A fifth opinion is that the dower is valid by anything which has value, either material or non-material.

The Evidence

Those of the first opinion, that the minimum dower is ten dirhams, support their view with the following evidence:

First is what is recorded by al-Daaraqutni and al-Baihaqi from Jaabir ibn Abdullah that the Messenger of Allah (peace be upon him) said,

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1 *Fath al-Qadeer*, vol. 2, pp. 435-436; *Nail al-Autaar*, vol. 6, p. 167.
2 *Al-Sharh al-Sagheer*, vol. 2, p. 28; *al-Mudawanah al-Kubra*, vol. 2, pp. 173-174.
3 *Al-Majmoo Sharh al-Muhadhib*, vol. 5, p. 482.
4 *Al-Muhalla Sharh al-Majallah* by ibn Hazm, the Dhaahiri, vol. 11, pp. 96-97, issue #1850.

ألا لا يزوج النساء إلا الأولياء ولا وزوجن إلا من الأكفاء ولا مهر أقل من عشرة دراهم

"No one is to marry women off except the guardians. They are not to be married except to those who are suitable. There is no dower less than ten dirhams."[1]

This hadith has been objected to because it is weak. Therefore, it is not proper to use it as evidence. It was narrated by Mubashir ibn Ubaid, and he is weak, from al-Hajaaj ibn Arta`ah and he committed *tadlees*.[2]

Second is what is recorded by al-Baihaqi through the chain of Shuraik on the authority of Dawood al-Audee on the authority of al-Shaabi on the authority of Ali (may Allah be pleased with him) who said, "The minimum that makes the private parts [of the wife] permissible is ten dirhams." This proof is refuted because Dawood al-Audee is not trustworthy. Ibn Maeen said about him, "He is not worth anything."[3]

Their third argument is that the amount must be something that reflects the greatness of making the private parts allowable. Just any amount of wealth would not meet that requirement. "The *shareeah* has stated the amount by which a part of the human may be taken and that is

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[1] *Al-Sunan al-Kubra* by al-Baihaqi, vol. 7, p. 132; *al-Taleeq al-Mughni ala al-Daaraqutni*, vol. 3, hadith #11, Chapter on the dower.

[2] *Nasb al-Raayah li-Ahaadeeth al-Hidaayah* by al-Zaila'ee, vol. 3, p. 196, Chapter on having suitable mates in the book of marriage. [*Tadlees* (التدليس), lit., deception; with respect to hadith sciences, it has many variations. One of the most common is where Mr. A will say, "On the authority of Mr. X," while, although Mr. A had heard hadith directly from Mr. X, he did not hear that particular hadith directly from Mr. X but through some intermediary source. If a narrator is known for committing frequent *tadlees*, his narration will not be accepted unless he explicitly shows that he heard the hadith directly from the one on whose authority he is narrating it. If he uses a vague term, such as *an* ("on the authority of"), his narration will not be accepted.]

[3] *Al-Sunan al-Kubra* by al-Baihaqi, vol. 7, p. 240, the Book of the Dower, Chapter on what is permissible as a dower.

ten dirhams, as in the case of the prescribed punishment for the thief, and it is that amount that must be paid to make the private parts legal."[1]

This argument is refuted because the amount for which the hand of a thief is cut off has no relevance here. Marriage is sought for pleasure and love while cutting off the hand of a thief is a type of punishment. [So there is no analogy between the two.] Furthermore, why did they determine the amount [of the dower] according to what requires the hand to be cut off instead of the amount that the Messenger of Allah (peace be upon him) gave his wives as a dower or the minimum amount due to which one must pay zakat, which is two hundred dirhams or twenty dinars?[2]

The people of the second opinion support their view by the Quran and the sunnah. From the Quran, they quote the following verse:

وَمَنْ لَمْ يَسْتَطِعْ مِنْكُمْ طَوْلاً أَنْ يَنكِحَ الْمُحْصَنَاتِ الْمُؤْمِنَاتِ فَمِنْ مَا مَلَكَتْ أَيْمَانُكُمْ مِنْ فَتَيَاتِكُمُ الْمُؤْمِنَاتِ

"And whoever among you has not the means (*taul*) to wed free believing women, they may wed believing women from among those whom your right hands possess" (*al-Nisaa* 25). The argument from this verse is that Allah has laid down the condition of lack of means in order for one to marry a slave-girl, because not everyone possesses the means (which are stated as *taul* in the above verse). The meaning of *taul* here is wealth. The word "wealth" is not applied to less than three dirhams. Therefore, what is less than three dirhams does not qualify for a marriage.[3]

This argument is criticized because the meaning of *taul* in that verse is not just wealth. Its meaning is wider than that. It also refers to virtuousness and ability in both a spiritual and material sense. A man could have plenty of wealth, more than what is needed for a customary dower of a free woman, but women flee from him due to a shortcoming in his physical being or character and therefore he is not able to marry a

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1 *Al-Hidaayah* by al-Kaloodhaani al-Hanafi, vol. 2, p. 436.
2 *Al-Umm* by al-Shafi'ee, vol. 2, p. 144; *al-Mughni*, vol. 8, p. 5; *Bidaayat al-Mujtahid* by ibn Rushd, vol. 2, p. 16.
3 *Al-Muqadimaat wa al-Mumahidaat* by ibn Rushd, vol. 2, pp. 357-358.

free woman. Furthermore, he may not be able to fulfill the rights of a free woman other than the dower. Free women have many rights, such as maintenance, equality in multiple marriages and so forth. The slave does not have all of those rights. Therefore, lacking *taul* can actually manifest itself in many different ways.[1]

Their evidence from the sunnah is what is narrated from Anas (may Allah be pleased with him) that the Prophet (peace be upon him) saw Abdul Rahmaan ibn Auf wearing dyed clothing. He asked him, "What is this?" He answered, "I married a woman with a *nawaah* amount of gold [as the dower]." The Messenger of Allah (peace be upon him) told him,

بَارَكَ اللَّهُ لَكَ أَوْلِمْ وَلَوْ بِشَاةٍ

"May Allah bless you. Give a dinner party, even if with just a sheep."[2]

They say that *nawaah* among the people of Madinah was equivalent to one-quarter of a dinar.[3]

However, the argument based on this hadith is objected to because there is no evidence that what is stated in the hadith, one-quarter of a dinar, is the minimum for a dower. Just because there was a dower of that amount does not negate the possibility that less is permissible—unless there is a clear statement indicating that less than that is not sufficient but there is no such statement here.

The people of the third opinion, the Shafi'ees and Hanbalis, say that anything that is wealth or that can take the place of wealth is permissible as a dower. They use the Quran and sunnah to support their view. From the Quran, they quote the verse [that states after declaring which women a man cannot marry],

وَأُحِلَّ لَكُمْ مَا وَرَاءَ ذَلِكُمْ أَنْ تَبْتَغُوا بِأَمْوَالِكُمْ

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[1] *Tafseer al-Manaar* by Rasheed Ridha, vol. 5, p. 19; *al-Muhalla*, vol. 11, pp. 100-101.

[2] Recorded by al-Bukhari (#5167), Book on Marriage, Chapter on a wedding feast even with just a sheep; Muslim (#1427), Book on Marriage, Chapter on the dower.

[3] *Nail al-Autaar* by al-Shaukaani, vol. 6, p. 178.

"and permissible for you is anyone other than those, as long as you seek them by your wealth" (*al-Nisaa* 24). The argument here is that the word "wealth" is stated in an unconditional sense and inclusive of both a small amount of wealth or a great deal of wealth.[1]

The objection to this argument is that the Quranic expression indicates that what is not *amwaal*[2] is not acceptable as a dower. Therefore, the condition is that the dower must be *amwaal*. This is the necessary and apparent meaning of the verse. Anyone who has just one or two dirhams cannot be called someone who has *amwaal*. Therefore, the necessary and apparent meaning of the verse is that the one or two dirhams is not acceptable as a dower.[3]

From the sunnah, they use the hadith,

من استحل بدرهم فقد استحل

"Whoever makes [the private parts] permissible by a dirham has made them permissible [in a legal way]."[4] Al-Haithami said [about the chain of narrators for this hadith], "It contains Yahya ibn Abdul Rahmaan ibn Abi Kabshah who is weak."[5] This argument has also been objected to by noting that "there is no proof in this evidence as it is a report about having the right to the private parts and does not indicate that nothing else is obligatory concerning it."[6]

Second, [they also use the following hadith as evidence]: Al-Shafi'ee narrated from Malik on the authority of Abu Haazim from Sahl ibn Saad that a woman came to the Prophet (peace be upon him) and

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1 *Al-Mughni*, vol. 8, p. 5.

2 [This is the plural of the word *maal*, meaning wealth. There is no equivalent to such in English but since it is a plural, it implies at least three of something in Arabic.—JZ]

3 *Ahkaam al-Quran* by al-Jassaas, vol. 2, p. 170.

4 Ibn Hajr, in *al-Fath*, vol. 9, p. 211, ascribes this hadith to ibn Abu Shaibah, in the midst of a number of hadith concerning which he says, "None of them are confirmed."

5 *Majma al-Zawaaid wa Manba al-Fawaaid* by al-Haithami, vol. 4, p. 281.

6 [The author (may Allah have mercy on him) put that argument in quotes but did not ascribe it to anyone in a footnote. In any case, it is a very weak refutation. The important point is that the hadith is weak and cannot be used as an evidence in the *shareeah*.—JZ]

said, "O Messenger of Allah, I have offered myself to you [as a wife]." The Prophet (peace be upon him) then stayed standing for a long time. Then a man stood and said, "O Messenger of Allah, marry her to me if you are not in need of her." The Messenger of Allah (peace be upon him) then said, "Do you have anything that you can give as a dower to her?" He replied, "I have nothing but this loin cloth of mine." The Prophet (peace be upon him) then said, "If you give it to her, you will have to sit without a loin cloth for you. Seek something for her." He said, "I do not find anything." He said, "Seek something even if is just a ring made of iron."[1]

The argument here is that "the Messenger of Allah (peace be upon him) allowed that man to give a ring made of iron for the dower. This indicates that the dower is proper whenever it is anything which may be called wealth."[2]

The objection to this argument is that here the Messenger of Allah (peace be upon him) was simply ordering the man to have part of the dower at the present time. This is what his speech was about. This is because if he were stating what would make the marriage valid, it would have been sufficient for him to tell the man that it is his responsibility to get such in the future. However, he specifically asked him about what he could prepare at the present [as a type of first portion of the dower]. This indicates that he was not stating what would be sufficient to make the marriage sound.[3]

However, this objection is responded to by referring to the previously mentioned two explanations: It is not allowed to understand what is mentioned in the two hadith as referring to the portion of the dower that is paid in advance because such an understanding goes against the normal case. Furthermore, giving a portion of the dower in advance and delaying the rest was not something known in the early periods of Islam.[4]

Their third piece of evidence is what is recorded by Abu Dawood and al-Tirmidhi on the authority of Aamir ibn Rabeeah that a

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1 This hadith was discussed earlier.
2 *Al-Muhalla*, vol. 11, pp. 104-105.
3 *Ahkaam al-Quran* by al-Jasaas, vol. 3, p. 86.
4 *Athaar Aqd al-Zawaaj fi al-Shareeah al-Islaamiyah*, vol. 1, p. 132.

woman from the tribe of Fazaarah married with a dower of a pair of shoes. The Messenger of Allah (peace be upon him) asked her, "Is your soul and wealth content with a pair of shoes?" She said, "Yes," so he permitted it.[1]

This proof is objected to because it is not proper to use it as an evidence because it is a weak hadith. Even assuming that it were authentic, a pair of shoes sometimes was worth more than ten dirhams, so there is no evidence in this hadith concerning this disputed matter.[2]

A fourth piece of evidence is what is recorded by al-Daaraqutni on the authority of Jaabir who said, "We used to get married during the lifetime of the Messenger of Allah (peace be upon him) with a handful of foodstuff [as the dower]."[3]

Those who say that anything that can be called a "thing" is acceptable as a dower even if it be a barley seed, that is, those of the fourth opinion, use as a proof what has been narrated from Sahl ibn Saad al-Saaidi that a woman came to the Prophet (peace be upon him) and said, "O Messenger of Allah (peace be upon him), I offer myself to you..." The hadith states that the Prophet (peace be upon him) said, "Seek something." The man answered, "I do not find anything." He told him, "Seek, even if it just be a ring made of iron."[4] The statement, "Seek something," encompasses anything that may be called a thing, even a barley seed.[5]

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[1] *Sunan al-Tirmidhi*, vol. 3, p. 420, #1113, the Book on Marriage, Chapter on what has been narrated concerning the dowers of women; ibn Maajah, #1888, chapter on the dower from the Book on Marriage. Its chain contains Aasim ibn Ubaidullah ibn Aasim ibn Umar ibn al-Khattaab who is a weak narrator, as stated in *al-Taqreeb*. It is stated in *Buloogh al-Maraam*, after stating that al-Tirmidhi called it *sahih*, that al-Tirmidhi is opposed in that matter. [Also according to al-Albaani, this hadith is weak. See Muhammad Naasir al-Deen al-Albaani, *Dhaeef Sunan al-Tirmidhi* (Beirut: al-Maktab al-Islaami, 1991), p. 129—JZ]

[2] *Ahkaam al-Quran* by al-Jassaas, vol. 3, pp. 88-89.

[3] *Sunan al-Daaraqutni*, vol. 3, p. 243, hadith #4, Chapter on the dower. In *al-Taleeq al-Mughni*, printed along with *Sunan al-Daaraqutni*, it states, "Its chain contains Yaqoob ibn Ata ibn Abi Ribaah al-Makki, who was declared weak by Ahmad. Abu Haatim called him 'not strong.'" Abu Dawood records virtually the same wording (hadith #2110) from the narration of Abu al-Zubair on the authority of Jaabir, as a statement of Jaabir. However, that chain is also defective.

[4] That hadith was discussed earlier.

[5] *Al-Muhalla*, vol. 11, p. 97; *Nail al-Autaar*, vol. 6, p. 167.

This argument is refuted because shortly after that, the Messenger of Allah (peace be upon him) stated, "Seek [something], even if it just be a ring made of iron." In these words, the Prophet (peace be upon him) was expressing one of the smallest things that he could get. However, even a ring made of iron has some value to it and it is definitely more costly than a barley seed.[1]

The fifth opinion states that the dower is valid as long as it is something of value, either material or non-material. This is the opinion with the strongest evidence. It is the opinion that combines all of the proofs available. It is also consistent with the proper *shareeah* meaning of the dower, in that the purpose of the dower is not simply an exchange of wealth. Instead, it is meant to be a token of the man's wanting that woman and the sincerity of his intention in coming together with her. This is usually conveyed by giving some type of wealth. However, it may be with anything that has value as long as the wife agrees to it.

In *Zaad al-Maad* [by ibn al-Qayyim], it states[2],

> In *Sunan al-Nasaai*[3] it is recorded that Abu Talha proposed to Umm Sulaim. She said to him, "By Allah, O Abu Talha, someone like you is not turned down. However, you are a man who is a disbeliever and I am a Muslim woman. It is not permissible for me to marry you. If you embrace Islam, that you will be my dower and I will not ask for anything besides that." Then he embraced Islam and that was her dower. Thaabit said, "We never heard of any woman who had a more honorable dower than Umm Sulaim. He consummated the marriage and she bore a child for him."
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> This hadith implies that there is no minimum value for the dower. A handful of fine flour, a ring made of iron and a

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1 *Nail al-Autaar*, vol. 6, p. 167.

2 Vol. 5, p. 178 of the Muassasah al-Risaalah edition.

3 *Sunan al-Nasaai*, vol. 6, p. 114, #3340 and 3341, the Book of Marriage, Chapter on getting married on the condition of Islam. The essence of the story can be found in the two *Sahihs* [of al-Bukhari and Muslim], although they contain a different narrative.

pair of shoes may all be acceptable as the dower and by which the wife becomes legal. The hadith also indicates that if a woman is pleased to accept the knowledge of her husband [that he will impart to her] and what he has memorized of the Quran or part of it as her dower, this is permissible. The benefit that she gets from his knowledge of the Quran and other knowledge will be her dower. Similarly, a slave master may designate the freeing of a slave-girl as her dower, in which case she benefits from her freedom and her possessions as her dower. This is what Umm Sulaim chose when she chose benefiting from Abu Talha's embracing of Islam. She would give herself to him if he were to embrace Islam and that was more beloved to her than any wealth that a husband spends. All of this is permissible because the dower has been instituted, in essence, as a right of the woman for her to benefit from.

If she is pleased to accept a person's knowledge, piety, embracing of Islam or his reading of the Quran, such a dower is from the most virtuous and beneficial types of dower. And the contract will not be void of a dower. Where is the ruling found in the texts [of the Quran and sunnah] that the dower must be at least three or ten dirhams? Analogy points to the soundness of the dower being any of the items that we have stated as well as the texts point to them.

The woman [who accepts such a dower] and the woman who gave herself to the Prophet (peace be upon him) are the same. The woman who gave herself to the Prophet (peace be upon him) did so without a guardian or dower, and this was a special privilege for the Prophet (peace be upon him) only. Our case is different. We marry with guardians and a dower. Even if the dower is not wealth, the woman can make it something else as she will be

receiving wealth in the form of maintenance. She does not give herself freely to the man like she might give part of her wealth as a gift. This is different from the case of the woman who gave herself to the Prophet (peace be upon him) and that was a special ruling for the Prophet (peace be upon him). Such is the necessary implication of those hadith.

Some differ with respect to part of that and they say that the dower must be wealth and it cannot simply be something that one can benefit from, such as the man's knowledge or his teaching. This is the view of Abu Hanifah and one narration from Ahmad. Some say that the dower must be at least three dirhams, like Malik's statement. Others, like Abu Hanifah, say ten dirhams. There are yet other strange opinions. However, none of them has any evidence for them from the Quran, sunnah, consensus, analogy or the statement of a Companion.

Anyone who claims that the hadith we mentioned are particular for the Prophet (peace be upon him) or have been abrogated or that the practice of the people of Madinah is in opposition to them, such arguments have no basis to them and the principles [of legal reasoning] refute those arguments.

In fact, the leader of the people of Madinah during the time of the Followers, Saeed ibn al-Musayyab, married his daughter off for just two dirhams. No one objected to that. Indeed, they considered that one of his virtues. Abdul Rahmaan ibn Auf got married with a dower of five dirhams and the Prophet (peace be upon him) approved of that. And there is no way to affirm any particular amount for the dower except from the one who received the revelation containing the *shareeah*.

Extravagant Dowers: The Causes, Results and Ruling

Preliminary Discourse

The dower is an obligatory right for the woman. The *shareeah* has made it an obligation as a token of the man's interest in the woman. It is one of the signs of love and a bond of compassion and mercy. It is an unavoidable obligation concerning which the man has no option but to give it. It is given as a sign of respect for his betrothed and a gesture to her honor, preciousness and esteem. Allah says in the Quran,

وَآتُوا النِّسَاءَ صَدُقَاتِهِنَّ نِحْلَةً فَإِنْ طِبْنَ لَكُمْ عَنْ شَيْءٍ مِنْهُ نَفْسًا فَكُلُوهُ هَنِيئًا مَرِيئًا

"And give the women [upon marriage] their dowers graciously. But if they remit a portion willingly, then take it in satisfaction and ease" (*al-Nisaa* 4).

This does not mean that a woman is a piece of merchandise to be bought or sold. Instead, the dower is a token for her honor and esteem. It takes into consideration the woman's natural desire for items of pleasure and her eagerness for adornments. Furthermore, the giving of wealth indicates the husband's intent upon fulfilling his responsibilities and attending to her rights.

Islam awoke the people to consider the dower as a token and not as a price for the woman. Islam also exhorted the people not to be extravagant with respect to the dower and to go beyond the proper limits since, after all, the dower is not actually a goal in itself.

The Messenger of Allah (peace be upon him) was the excellent example. On this particular issue, he established for the Muslim nation a splendid practice, so that the reality of the matter would be well established in the sincere and thoughtful society and that the spirit of ease and simplicity would be well-known among the people. His (peace be upon him) simplicity when it came to the dower of his daughters is an obvious indication that he wanted to spread that understanding among

the people. Ibn Abbaas narrated that when Ali married Fatimah, the Messenger of Allah (peace be upon him) told Ali, "Give her something." He replied, "I do not have anything." The Messenger of Allah (peace be upon him) said, "Where is your smashed armor plate?" He said, "I have it." So the Messenger of Allah (peace be upon him) said, "Give it to her."

This confirms that the dower, from an Islamic perspective, is not the goal in and of itself. It is also not setting a price for the worth of a woman. In fact, it is sanctioned to be easy in setting dowers and not to be extravagant. A hadith states,

خير الصداق أيسره

"The best dower is the easiest [for the person to meet]."[1] The Messenger of Allah (peace be upon him) also said,

إن من يمن المرأة تيسير خطبتها وتيسير صداقها وتيسير رحمها

"From the blessings related to a woman are the facilitating of her proposal, the facilitating of her dower and the facilitating of her womb."[2]

The wisdom behind forbidding extravagant dowers is obvious. It is to make marriages easier upon the people, so that they do not become adverse to it and therefore succumb to various evil social ills and practices.

Definitely, the dower is simply a token and not a price for merchandise. Furthermore, the happiness of a household is not found in extravagance, waste and burdening when it comes to the dower. Al-Tirmidhi recorded and declared authentic the narration from Aamir ibn Rabeeah that a woman from the tribe of Fazaarah married and the dower was a pair of shoes. The Messenger of Allah (peace be upon him) asked

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[1] *Al-Mustadrak ala al-Saheehain*, vol. 2, p. 182. [According to Al-Albaani, this hadith is *sahih*. See Muhammad Naasir al-Deen Al-Albaani, *Saheeh al-Jaami al-Sagheer* (Beirut: al-Maktab al-Islami, 1988), vol. 1, p. 621.—JZ]

[2] Recorded by Ahmad in *al-Musnad*, vol. 6, pp. 77 and 91. [According to Al-Albaani, this hadith is *sahih*. See Al-Albaani, *Saheeh al-Jaami*, vol. 1, p. 444.—JZ]

her, "Is your soul and wealth pleased with a pair of shoes?" She replied, "Yes," and therefore the Prophet (peace be upon him) allowed the marriage.[1]

Ibn al-Qayyim stated, after mentioning a number of hadith in which the Prophet (peace be upon him) issued some decrees concerning the dower,

> These hadith imply that there is no minimum established for the dower. A handful of flour, a ring made of iron and a pair of shoes can all validly be declared the dower and by them the marriage is valid. These hadith also imply that it is disapproved to have extravagant dowers for the marriage and such reduces its blessings and makes it more difficult.[2]

There is no room in Islam for that materialistic approach that has overcome the thoughts of many people who, therefore, demand exorbitant dowers. The situation has deteriorated to such an extent that hardly any people leave a marriage ceremony without discussing how much the dower was. It is as if they were leaving from an auction. A woman is not a piece of merchandise that is sold in some kind of "woman's market" such that people should be speaking about her in such a purely materialistic fashion.

Abu al-Ujafaa al-Sulami said that he heard Umar ibn al-Khattaab say,

> Listen! Do not become exorbitant when it comes to the dowers of women. Verily, if such a thing were noble in this world or an act of obedience to Allah, the first one to demand such would be the Prophet (peace be upon him). However, the Prophet (peace be upon him) never gave in dower to his wives or asked for dower for his daughters

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1 This hadith was discussed earlier. [Previously, the author (may Allah protect him and preserve his life) indicated that this hadith is weak and that it cannot be used as evidence. Now it seems that he is using as a piece of evidence. This is definitely an oversight on the part of the author, may Allah forgive him and all Muslims.—JZ]

2 *Zaad al-Maad*, vol. 5, p. 178, *al-Risaalah* edition.

> anything in excess of twelve *auqiyah*. A man goes to such an extreme in getting a dower for his wife that there develops an enmity for her in him, and he says, "I burdened myself [to the point of even providing] the rope of the waterskin for you."[1]

In other words, he says to her, "I overburdened myself and I bore everything just for you. Even the rope of a waterskin I presented for you."[2]

The Maliki jurist ibn al-Arabi stated, "An *auqiyah*, according to the people of knowledge, equals forty dirhams. So twelve *auqiyah* equals four hundred and eighty dirhams[3]."[4]

Exorbitant dowers, extravagance, pomp, ignorant customs, wrongful taking of a woman's dower and using it for purposeless show are the causes behind many young men not being able to marry and many women becoming old maids nowadays. If only the people would follow the Islamic path when it comes to values, not allowing evil customs to distance them from what is proper nor having evil practices take sway over them, the structure and health of the household would not be in the state of disrepair that we witness today.

The houses have become filled with old maids due to the numerous conditions that the people place on the men proposing and the heavy burdens that they must face. These conditions sometimes come from the woman herself or her guardian or are due to the prevalent customs and norms of her tribe. How could it be that there would be one young man rolling in luxury and having great wealth for each of those

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[1] Recorded by Abu Dawood (#2106) in the Book of Marriage, Chapter on the dower; al-Tirmidhi (#1114) in the Book of Marriage, Chapter on what has been related concerning the dower of women; al-Nasaai (vol. 6, p. 117) in the Book of Marriage, Chapter on being just in the dowers, and the wording above is from him; ibn Maajah (#1887); Ahmad in *al-Musnad* (#285, 278, 340); and al-Haakim in *al-Mustadrak* (vol. 2, p. 175). It is a narration that is confirmed and authentic.

[2] *Haashiyah al-Imaam al-Sindi ala Sunan al-Nasaai*, vol. 6, p. 118, Chapter on being just in giving dowers from the chapters on Marriage.

[3] In other words, it is equivalent to approximately 116 Saudi riyals [or around US $30].

[4] *Saheeh al-Tirmidhi bi-Sharh ibn al-Arabi al-Maaliki*, vol. 5, p. 36.

women, to propose to them and be able to please them and meet their conditions? Verily, we belong to Allah and to Allah shall we return!

History tells us that this dower, that was established for a noble and good purpose, was in all eras easy and simple on the people and it was something that was available in every time and environment.

Ibn Taimiya wrote,

> Only a fool and ignoramus could lead himself to requiring a dower for his daughters that is larger than the dower of the daughters of the Messenger of Allah (peace be upon him), who were the best of Allah's creation in their nobility and they were the most virtuous of all the women in the world. The same is true [for one who demands more than] the dowers of the mothers of the believers [the Prophet's wives]. Such is the case for one who has the means and ability to pay more. As for the poor person, he must not agree to a dower that he is not able to pay without undergoing hardship.[1]

The Causes behind Exorbitant Dowers

In any case, behind this worthless phenomenon are causes that are followed by negative results and great harm. The causes for exorbitant dowers include the following:

(1) The abundance of wealth [is a major cause]. This phenomenon did not exist until the people had abundant wealth and their pockets became filled. The strong winds of this new modern-day rich society then brought about many new things that were not existent before.[2]

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[1] *Majmoo Fataawaa Shaikh al-Islaam ibn Taimiya*, vol. 32, pp. 192-194.

[2] [Lots of wealth is not a prerequisite for the phenomenon of exorbitant dowers. In reality, even in many poor societies the dower set for women is very great. In some areas, most of the men cannot marry unless they get into a debt that they will not be able to get out of for years to come.—JZ]

(2) The desire of the husband to show that he is rich and well-to-do and his desire to convince his wife and her guardians that he is well-to-do [is yet another cause].

(3) Covetousness and greed on the part of some guardians and their failure to realize the value and principle goals of marriage [is another important cause]. In addition, they [wrongly] see many actions and expenses as necessary, that they cannot cut short at all.

(4) A hasty and immature seeking of riches only, regardless of other qualities [of the prospective husband is another cause]. For that reason, they reject the qualified, God-fearing, pure and upright person who can benefit the woman in both her life here and in her Hereafter.

(5) Blind following of others [is another important cause]. If another person did something, then the next in line must also do the same otherwise he will be considered cheap and will be exposed to insults from the people.

(6) Allowing the women to decide and get involved in these matters, listening to their opinions and fulfilling their wants, not distinguishing between what is a sound demand and what is not, [is another important cause].

(7) Boasting and competition in preparing the new home leads to being exorbitant in dowers and abuse in such matters.

These are some of the main causes that lead to exorbitant dowers.[1]

The Negative Consequences of Exorbitant Dowers

The negative consequences, evil results and extremely harmful aspects due to this phenomenon of exorbitant dowers are many. They include the following:

(1) Most of the young men have to remain bachelors and most of the young ladies become old maids. The young man who has little or no wealth, and yet he wants to keep himself chaste, will soon become depressed and sad. He can remain a bachelor, tasting the bitterness of

[1] See *Min Qadhaaya al-Zawaaj* by Jaasim al-Yaaseen (pp. 70-72); *al-Zawaaj wa al-Muhoor* by Shaikh Abdul Azeez al-Masnad (pp. 57-58).

being prevented from marriage and living without a wife. Or he can bear the burden of a loan that he will not be able to repay easily and, hence, he and his wife will have to live a very poor life. Soon such a marriage will be destroyed and its bonds destroyed. This is a punishment from Allah due to the exorbitant dowers, waste and extravagance the people fell into.

(2) Immorality spreads between the two sexes when they have no means to marry and they seek a substitute for its pleasures.

(3) Psychological problems afflict the young men and women due to the suppression of their natural needs and the crushing of their dreams and aspirations.

(4) Many of the children then begin to disobey their fathers and mothers and refuse to abide by the good customs and morals that have been passed down.

(5) The guardian betrays his ward by refusing to marry her to one who is pious and qualified but whom he believes will not pay a large dower. He refuses that person out of hopes that he will find someone who will pay a larger dower even though his religion and character is not pleasing. He is not working for the happiness of the woman he is in charge of. In addition to this being a type of deception or betrayal, he is leaving that woman in suspense. If he does that often, he must be considered an evil doer, lacking in faith, who is not considered trustworthy until he repents.

(6) Burdening the husband beyond what he can bear [by such exorbitant dowers] produces a hatred in his heart for his wife since his material means are now very limited due to her. The goal of marriage is happiness and not this unhappiness [that is produced by such dowers].[1]

Now that the causes of exorbitant dowers and their painful consequences have been made clear, we must clarify the ruling of such dowers and what the scholars have said about them.

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[1] *Al-Zawaaj wa al-Muhoor*, pp. 57-58; *Min Qahaaya al-Zawaaj*, pp. 71-72.

The Ruling Concerning Exorbitant Dowers

Among the scholars, there are three opinions on this issue:
(1) Exorbitant dowers are permissible.
(2) Exorbitant dowers are not permissible.
(3) Different cases need to be discussed separately.

The First Opinion: The first opinion states that exorbitant dowers are permissible. An evidence for this view is the following verse of the Quran,

وَآتَيْتُمْ إِحْدَاهُنَّ قِنطَارًا فَلَا تَأْخُذُوا مِنْهُ شَيْئًا

"If you have given one of them a great amount [*qintaar*], do not take any of it back" (*al-Nisaa* 20). While commenting on this verse, ibn Katheer stated, "In this verse there is an indication that it is allowed to give a great deal of wealth as a dower."[1] Al-Qurtubi said in his commentary, "This verse is evidence that it is allowed to be exorbitant in dowers as Allah does not give as an example except what is permissible."[2]

In a public address, Umar stated, "Listen! Do not become exorbitant when it comes to the dowers of women. Verily, if such a thing were noble in this world or an act of obedience to Allah, the first one to demand such would be the Prophet (peace be upon him). However, the Prophet (peace be upon him) never gave in dower to his wives or asked for dower for his daughters anything in excess of twelve *auqiyah*." A woman stood up to him and said, "O Umar, Allah has given us and you forbid us. Didn't Allah say in the Quran, ' If you have given one of them a great amount [*qintaar*], do not take any of it back' [*al-Nisaa* 20]?" Then Umar said, "A woman is correct and Umar is mistaken." Then he stopped his prohibiting them.

"The dower, according to the *shareeah*, is a gift and offering. Thus, it has no prescribed limit. People differ with respect to being rich

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[1] *Tafseer al-Quran al-Adheem* by Abu al-Fidaa ibn Katheer, vol. 1, p. 466 (Daar Ihyaa al-Kutub al-Ilmiyah, third edition, 1375 A.H.).
[2] *Al-Jaami li-Ahkaam al-Quran* by al-Qurtubi, vol. 5, pp. 99-100.

or poor. So the *shareeah* has left everyone to set its limit according to their ability."[1]

The Second Opinion: The second opinion is that it is not allowed to have exorbitant dowers. The followers of this view reply to the verse that was used as evidence by the people of the first opinion by saying that the verse is irrelevant to this issue for the following reasons:

First, the example of a *qintaar* [a large amount of wealth] is only an exaggerated method to stress the point that even if one had given them a great deal of wealth, he cannot take back any portion of it. It is similar in vein to the Prophet's (peace be upon him) statement,

مَنْ بَنَى مَسْجِدًا لِلَّهِ كَمَفْحَصِ قَطَاةٍ بَنَى اللَّهُ لَهُ بَيْتًا فِي الْجَنَّةِ

"For whoever builds a mosque for the sake of Allah the size of a grouse's nest, Allah will build for him a house in Paradise."[2] "But there cannot be a mosque the size of a grouse's nest."[3]

Second, it is not necessary that when one thing is stated as a conditional aspect for something else that the first thing is in itself permissible. Allah's saying, "You had given them," does not indicate that it is permissible to give such an amount. It is like the Prophet's statement,

مَنْ قُتِلَ لَهُ قَتِيلٌ فَهُوَ بِخَيْرِ النَّظَرَيْنِ إِمَّا يُودَى وَإِمَّا يُقَادُ

"If someone has a relative killed, he has two choices: either he can be paid the blood money or he may exact retribution."[4]

Furthermore, the most that one can say about this verse is that it allows the one who has the ability to pay a large dower to pay such a dower. However, it does not mean that the one who does not have such

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1 *Tafseer Ayaat al-Ahkaam* by al-Saabooni, vol. 1, p. 453, first edition, 1391 A.H./1972, Damascus.

2 Recorded by ibn Maajah (#738) and ibn Khuzaimah (#1292) on the authority of Jaabir ibn Abdullah. Al-Boosairi said, "Its chain is *sahih*."

3 *Al-Jaami li-Ahkaam al-Quran* by al-Qurtubi, vol. 5, pp. 99-101.

4 Recorded by al-Bukhari (#6880), Muslim (#1355), Abu Dawood (#4505), al-Nasaai (vol. 8, p. 38) and al-Baihaqi in *al-Sunan al-Kubra* (vol. 8, p. 52).

ability may be forced to pay that amount. This is indicated by the Prophet (peace be upon him) objecting to Abu Hadrad al-Aslami when he came to the Prophet (peace be upon him) to seek assistance in paying the dower of his wife. The Messenger of Allah (peace be upon him) asked him, "What is the amount of her dower?" He said, "Two hundred dirhams." The Prophet (peace be upon him) then said, "If you were to dig out [the silver] in the valley of Bathaan, you would not exceed that amount." Recorded by al-Haakim who said that its chain is *sahih* although al-Bukhari and Muslim did not record it. Al-Dhahabi concurred with his assessment.[1]

He also objected to the woman from the Ansar who got married with the dower being four *awaaq* [of silver] as that was not appropriate for her situation. Muslim recorded in his *Sahih*[2] from Abu Hurairah who said: A man came to the Messenger of Allah (peace be upon him) and said, "I am getting married to a woman from the Ansar." The Prophet (peace be upon him) said to him, "Have you taken a look at her for in the eyes of the Ansaar there is something [unpleasant for those not used to it]?" He said, "I have taken a look at her." He then said, "What was the amount [of the dower] for the marriage?" He replied, "Four *uqiya*s." The Prophet (peace be upon him) then said to him, "With four *uqiya*s? It is as if you dig out silver from the side of this mountain [and that is how you plan on paying this great amount]. We do not have anything we can give you. However, we may send you on a military expedition and you may end up getting something [that is, some booty]." The Prophet (peace be upon him) sent an expedition to Banu Abs and he sent that man along with them.

Al-Nawawi wrote in his commentary to *Sahih Muslim*, "The meaning of those words is the disapproval of increasing the dower relative to the situation of the husband."[3]

As for the story wherein Umar prohibits exorbitant dowers and then the woman refutes what he stated, although it is very famous and spread among the people, all of its chains are questionable and many

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[1] *Al-Mustadrak ala al-Saheehain* by al-Haakim al-Naisaboori, vol. 2, p. 178.
[2] No. 1424, The Book of Marriage, Chapter on looking at the face and hands of the woman one desires to wed.
[3] *Sharh Saheeh Muslim* by al-Nawawi, vol. 9, p. 210.

scholars have doubted it. It should be noted that it is not recorded in any source work that dates from close to the time of Umar. Furthermore, it is not recorded in the many relied upon source works of hadith. The four companions of the *Sunan* works [Abu Dawood, al-Nasaai, al-Tirmidhi and ibn Maajah] all avoided recording it. Many of the leading scholars of hadith, those who recorded Umar's prohibition of exorbitant dowers, only record the portion where Umar speaks about the dowers related to the Prophet (peace be upon him) [and they do not mention anything of the rest of the story concerning that woman].

In *Ahkaam al-Quran*,[1] Abu Bakr ibn al-Arabi clearly stated that the well-established and known narration from Umar is that in which no woman objects to what he stated.

Furthermore, the hadith, as recorded by the compilers of the *Sunan* who did not mention the story of the woman, has been narrated through al-Ajfaa ibn Naseeb and his hadith are not founded and some say that there is some doubt about him.[2]

Some record a narration that contradicts the narration that states that a woman refuted Umar with the verse she quoted. Some, instead of having a woman rebut Umar, have the additional words, that were mentioned earlier, "A man goes to such an extreme in getting a dower for his wife that there develops an enmity for her in him, and he says, 'I burdened myself [to the point of even providing] the rope of the waterskin for you.'"[3]

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[1] Vol. 1, p. 364.
[2] *Tahdheeb al-Tahdheeb* by ibn Hajr al-Asqilaani, vol. 14, p. 165, #790. [It is not clear to this translator the point the author is trying to make here. Earlier, he stated in a footnote that the narration from Umar is confirmed and authentic. The questionable aspect is the additional portion, narrated by some, in which a woman confronted Umar concerning what he had said. The paragraph above does nothing to support the contention that the additional portion is not authentic, as the author has stated and shall continue to demonstrate. Allah knows best.—JZ]
[3] Recorded by Abu Dawood (#2106) in the Book of Marriage, Chapter on the dower; al-Tirmidhi (#1114) in the Book of Marriage, Chapter on what has been related concerning the dower of women; al-Nasaai (vol. 6, p. 117) in the Book of Marriage, Chapter on being just in the dowers, and the wording above is from him; ibn Maajah (#1887); Ahmad in *al-Musnad* (#285, 278, 340); and al-Haakim in *al-Mustadrak* (vol. 2, p. 175). It is a narration that is confirmed and authentic.

Al-Albaani discusses in *Irwaa al-Ghaleel*[1] the authenticity of the story of Umar prohibiting exorbitant dowers. He stated,

> Note: What is commonly spread on the tongues of the people is that a woman objected to Umar's statement and said, "You have just prohibited the people from having exorbitant dowers while Allah says in His book, 'If you have given one of them a great amount [*qintaar*], do not take any of it back.'" Umar then said two or three times, "Everyone has a better understanding than Umar." Then he went back to the minbar and said, "I prohibited you from exorbitant dower. Listen, a man should do with his wealth what he sees he should do." This report, though, is weak and rejected. It is narrated by Mujaalid on the authority of al-Shabi from Umar. Al-Baihaqi recorded it and said, "This has a broken chain." I say: In addition to it having a broken chain, it is weak due to Mujaalid, who is ibn Saeed, and he is not strong. Furthermore, its text is objectionable for the verse does not negate the advice that Umar gave concerning exorbitant dowers.

Conclusion

We must take a fresh look at this phenomenon that has spread throughout the Muslim lands, but is particularly common in the Arabian peninsula. Insisting on exorbitant dowers is actually to no one's benefit. It has made life very difficult for the people. They, as well as both the guardians of the man and the woman, are fed up with it and becoming very unhappy with this evil custom. No intelligent person could witness the many young men who cannot get married and how they are trying to amass wealth as well as what is happening among the generation concerning women displaying their persons in public and the evil that is spreading except that he will be convinced that the dowers must be made as accessible as possible.

[1] Vol. 6, p. 347-348, #1928.

Since people differ with respect to how rich or poor they are, the financial situation of the prospective husband must be taken into consideration. A man must not be asked for something which is beyond what he can bear. That may force him to then seek a loan or ask others for help. In fact, it might even drive him to extend his hand to forbidden sources of wealth or to knock on the doors of questionable avenues in order to gather together the money he needs for his fiancée's dower.

Ibn Qudaamah stated in *al-Mughni*,

> It is not preferred to have a dower in excess of what the Prophet (peace be upon him) gave his wives. This is because if the amount of the dower is increased, the person may not be able to meet it and he may face some harm in this life and the Hereafter.[1]

The correct position is that it is questionable to say that exorbitant dowers are permissible unconditionally or to say that exorbitant dowers are forbidden unconditionally. The correct view is to take the different cases into consideration and conclude that if the *shareeah* causes are present, it is permissible to have a very large dower. However, if such a large dower leads to harm or evil, it is not permissible.

This is the choice of Shaikh al-Islam ibn Taimiya. In *al-Ikhtiyaaraat* he wrote,

> If the dower that is given at the time of the marriage is a lot but the person has the means to pay it, it is not reprehensible, unless it is accompanied by an act that makes it reprehensible, such as boasting about it or something of that nature. However, if the person is not able to pay such an amount, it is disliked. In fact, it is forbidden if the person cannot amass it save by begging or other forbidden means.[2]

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[1] Vol. 10, p. 101, Hajr publishing in Egypt, first edition, 1410 A.H., edited by Dr. al-Turki and Dr. Hilu.

[2] *Al-Ikhtiyaaraat al-Fiqhiyah min Fataawa Shaikh al-Islaam ibn Taimiyah*, p. 227, al-Sunnah al-Muhammadiyah, Cairo.

In *Ahkaam al-Quran*, Abu Bakr ibn al-Arabi stated, "The people vie in boasting about the dowers to the point that the dower reaches one million and very few can amass that amount through means which are permissible."[1] Furthermore, when the husband is overburdened by the dower and other necessary spending for the marriage, he develops a hatred in his heart for his new wife and the results are the opposite of what they are supposed to be in a marriage, as was discussed earlier.

We do not reject the reality nor are we ignorant of the fact that society has different classes with respect to wealth, poverty, ability to spend and inability to spend. However, at the very least, the dower should take into consideration the social class of the husband and wife. If there is no hardship upon the man and the act is not done for boasting, competing against others or extravagance and the dower is from permissible sources, then there is no problem concerning its amount [even if it is great].

As for the poor person, he should not be asked for a dower that he cannot attain except through hardship. The guardians of the woman should not seek such from him. Remember, the dower is a gift and a present to the woman. It does not make any sense that the giver is required to provide such a present that would cause him difficulty.

At the same time, we must not get to the point that we neglect the importance of the dower and simply stress its harm and, therefore, say that it should be done away with. Certainly this cannot be done. We reject this approach from its very roots because we will never accept any going to extremes with the law of Allah concerning honoring the woman and demonstrating how precious she is. We reject this in the same way that we reject the concept that has captured the minds of many people with respect to the amount of the dower that is equally burdening our young men and women.

We also reject the justification that some young men give for refusing to marry the women of their country because they claim that the dowers are too high and they therefore marry women from other countries. We reject this because we know of many guardians who do not ask for exorbitant dowers nor do they put such as a condition for

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[1] *Ahkaam al-Quran*, vol. 1, pp. 364-365.

marriage. On the contrary, they ask for a dower that is more of a token than anything else in order to follow the sunnah. At the same time, these same guardians give a great deal of wealth to their daughters, much more than what the husband gives to them.

When the Woman is Entitled to Her Entire Dower

The jurists agree that it is certain that the entire dower must be paid to the woman as the result of a sound marriage that has been consummated or in which the husband has died.[1] This is true regardless of whether the amount of the dower was explicitly stated or if it were a dower that was unstated and the same as women who are similar to the wife. None of the obligation of paying the entire dower is to be dropped unless it was already paid or if the one who has the right to it gives it up of her own accord.

In addition to the two above mentioned cases [of consummation or death], the following causes are added that also require the woman to be paid her entire dower:

According to the strongest opinion among the scholars, the woman is entitled to her entire dower as a result of a complete seclusion with her husband after a valid marriage [even if they did not consummate the marriage]. According to the Malikis, the woman is entitled to her complete dower if she spends one year in the house of her husband, even if they did not have sexual intercourse. According to the Hanbalis, she is also entitled to her complete dower if the husband is on his deathbed and divorces her only to prevent her from inheriting from him, even if such is done before consummation. Imam Ahmad specifically stated that any kind of physical pleasure, such as kissing, with the wife, even if it is less than sexual intercourse and not in private, requires that the woman receive her entire dower.

A more detailed discussion of the above aspects follows.

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[1] *Bidaayah al-Mujtahid wa Nihaayah al-Muqtasid* by ibn Ibn Rushd al-Maaliki, vol. 1, pp. 22-23 (al-Istqiaamah publishing, Cairo); *Qawaaneen al-Ahkaam al-Shariyyah* by ibn Juzayy, p. 226.

(1) Actual Consummation

This implies any sexual intercourse or sexual contact, even if in a forbidden fashion, whether it be through the vagina or anus, as long as the man's private part has entered the woman, and even if it be when she is menstruating, post-partum hemorrhaging, performing the pilgrimage, fasting or in seclusion in the mosque. The dower must then be paid in return for what the person has done. The man has received his right by such consummation and, therefore, the woman is entitled to her entire dower.[1]

This is based on Allah's words,

وَإِنْ أَرَدْتُمُ اسْتِبْدَالَ زَوْجٍ مَكَانَ زَوْجٍ وَآتَيْتُمْ إِحْدَاهُنَّ قِنطَارًا فَلَا تَأْخُذُوا مِنْهُ شَيْئًا

"But if you want to replace one wife with another and you have given one of them a great amount [*qintaar*], do not take any of it back" (*al-Nisaa* 20).[2] And the Messenger of Allah (peace be upon him) said,

أَيُّمَا امْرَأَةٍ نَكَحَتْ بِغَيْرِ إِذْنِ وَلِيِّهَا فَنِكَاحُهَا بَاطِلٌ فَنِكَاحُهَا بَاطِلٌ فَنِكَاحُهَا بَاطِلٌ فَإِنْ دَخَلَ بِهَا فَلَهَا الْمَهْرُ بِمَا اسْتَحَلَّ مِنْ فَرْجِهَا

"If any woman gets married without the permission of her guardian, then her marriage is void; then her marriage is void; then her marriage is void. If he consummated with her, she is entitled to her dower since her private part was taken advantage of."[3] If the woman is entitled to all of

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[1] *Al-Fiqh al-Islaami wa Adillatuhu* by Dr. Wahbah al-Zuhaili, vol. 7, p. 289.

[2] [This is the verse that is mentioned in the text. Most likely, it is a mistake as this verse does not prove the point that was being made. The verse that the author was probably referring to was, "So with those of whom you have enjoyed sexual relations, give them their dower as prescribed" (*al-Nisaa* 24). This verse indicates that sexual relations entitles the woman to her entire dower. Allah knows best.—JZ]

[3] Recorded by Abu Dawood (#2083) in the Book of Marriage, Chapter on the guardian; al-Tirmidhi (#1102) in the Book of Marriage, Chapter "There is no marriage except with a guardian"; Ibn Hibbaan (#1248) and al-Haakim (vol. 2, p. 168) declared it authentic. It is a *sahih* hadith.

her dower due to a voided marriage, she must even more so be entitled to all of her dower due to a valid marriage.[1]

(2) The Death of Either Spouse after a Sound Marriage and Even before Consummation, According to the Agreement of Scholars[2]

If either spouse dies after a sound marriage contract yet before consummation, the woman is entitled to her entire dower according to the agreement of the jurists if the dower was explicitly stated in the contract.[3] This is because the marriage contract is not annulled by the death. The contract simply comes to an end due to the death of one of the parties. All the rulings are put into force, therefore, including the dower. The Companions were in agreement that in such a case the woman is entitled to her complete dower.

According to the Malikis,[4] if the dower was not explicitly stated in the contract, the woman is not entitled to anything. They make an analogy between this case and the cases of death while divorced, divorce from consummation or private seclusion and before stating a dower.[5]

According to the majority of jurists,[6] in such a case, she is entitled to receive the same dower of women who are similar to her. Abdullah ibn Masood judged concerning a woman whose husband died and had not consummated the marriage or stated the dower, "She is to receive the dower of the women similar to her, without any shortcoming or increase; she must observe the mourning period and she receives her inheritance [from her deceased husband]." Then Miqil ibn Sanaan said,

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1 *Nail al-Autaar* by al-Shaukaani, vol. 6, p. 118.

2 *Bidaayah al-Mujtahid wa Nihaayah al-Muqtasid* by ibn Rushd, vol. 2, p. 22; *Rahmat al-Ummah fi Ikhtilaaf al-Aimmah*, p. 213.

3 [If the wife dies, her heirs are entitled to receive her dower.—JZ]

4 *Mausooah al-Ijmaa fi al-Fiqh al-Islaami* by Saadi Abu Jaib, vol. 2, p. 980.

5 *Qawaaneed al-Ahkaam al-Shariyyah wa Masaail al-Furoo al-Fiqhiyyah* by ibn Juzayy al-Maaliki, p. 227.

6 *Tuhfah al-Fuqahaa* by al-Samarqandi, vol. 1, p. 141.

"The Messenger of Allah (peace be upon him) made the same judgment you just made concerning Barwa bint Waashiq."[1]

Furthermore, the term of the contract is life. It ends with the death of either. However, what must be given in exchange has already been established, in the same way as when the time of the end of a lease comes up and the person must pay for what preceded it.

The following question has been brought up: Is being killed to be considered the same as death? If one of the spouses is killed by a third party or if one of the spouses kills the other or if one of the spouses commits suicide, then, according to the strongest of the two opinions among scholars, being killed is treated in the same way as death with respect to the dower. However, if the wife intentionally kills her husband, that will cause her to lose her dower. This is because, in this case, her treacherous act brings the marriage contract to an end through a sin. Any time the marriage contract is brought to an end due to a sin on the part of the wife and before consummation, she loses all of her dower, as is true in the case of her apostatizing. And no one has a right to that dower. This is the strongest opinion.[2]

(3) A True Seclusion

Ibn Abideen has defined this concept of a real or true seclusion as, "This is where, after a sound marriage contract, the spouses are alone together with the ability to completely experience one another, being

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[1] This is a *sahih* hadith. Recorded by Abu Dawood (#2114, 2115, 2116) in the Book of Marriage, Chapter on one who gets married and the dower is not stated; al-Tirmidhi (#1145) in the Book of Marriage, chapter on what has been reported concerning a man who gets married and dies before determining the dower; al-Nasaai (vol. 6, pp. 121-123) in the Book of Marriage, chapter on the permissibility of marrying without stating the dower; ibn Maajah (#1891); Imam Ahmad in *al-Musnad* (#4099, 4100, 4272); ibn Hibbaan (#1263) who declared it *sahih*; and al-Haakim (vol. 2, p. 108). Ibn Hajr has a lengthy discussion of this hadith in *Talkhees* (vol. 3, pp. 191-192) and he states who considered it authentic and responds to those who considered it weak.

[2] *Al-Fiqh al-Islaami wa Adillatuhu* by Wahbah al-Zuhaili, vol. 7, pp. 290-291; *al-Sharh al-Sagheer* by al-Dardeer, vol. 2, p. 438.

safe from anyone entering upon them, and with neither of them having any natural, physical or *shareeah* obstacle to such enjoyment."

A "natural impediment" means the presence of another mature person. A "physical impediment" means one of them having an illness that would prevent intercourse, such as a vaginal or scrotal hernia or when the woman's vagina has been sewn together or cannot be penetrated. A "*shareeah* impediment" would include one of them fasting during Ramadhan or being in the state of voluntary or obligatory pilgrimage or *umrah*.

A true seclusion has the same status as consummation with respect to entitling the woman to her entire dower, if the two get divorced or the marriage is annulled before the actual consummation but after said seclusion. This is according to the stronger of the two opinions among the scholars. We shall discuss this issue in greater detail when we discuss the question of paying only half of the dower, Allah willing.

(4) The Wife Staying One Year in the House of the Husband

According to the Malikis, if the wife stays in the house of the husband for one year and he does not have intercourse with her, she is still entitled to her entire dower. In other words, if a man marries a woman and he takes her home in a marriage procession and she stays with him for one year, given that she is adult and able to have sexual intercourse, and they agree not to have sexual intercourse for that year, she is entitled to her entire dower. This is because her stay implies the action or takes the place of the intercourse. However, the Hanafis, Shafi'ees and Hanbalis disagree with this opinion.[1]

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[1] *Al-Fiqh al-Islaami wa Adillatuhu* by Wahbah al-Zuhaili, vol. 7, pp. 292-293.

(5) A Divorce Said on One's Deathbed, before Consummation of the Marriage, in Order to Keep the Wife from Inheriting

According to the Hanbalis,[1] a woman is entitled to her complete dower if she is divorced while her husband is on his deathbed and dies after pronouncing the divorce, even before consummation, if he is trying to keep her from inheriting. She is entitled to her entire dower at the time of his death in the same manner that she must now enter into the mourning period of a widow, as long as she does not [illegally] wed during that time or apostate. The principle is that a new event is ascribed to the most recent time.[2]

(6) Physically Enjoying One's Wife in a Manner Less than Sexual Intercourse, such as Kissing and so forth, While Not in Complete Privacy

Ahmad explicitly stated that in such a case, the woman is entitled to her complete dower. In *al-Mughni* it states, "If he is with her and touches her or hugs her, without being in private with her, she is

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[1] *Al-Mughni* by ibn Qudaamah, vol. 10, p. 157.

[2] *Durur al-Hikaam Sharh Majallah al-Ahkaam al-Adalyyah* by Ali Haidar (p. 25), article 11 (published by Dar al-Ilm al-Malaayeen, Lebanon). [Here the author has quoted an established fiqh principle. However, it may not be applicable to the question at hand. Using the same reference the author has noted, the application of this principle would be as follows: If a woman claims that she has been divorced by her husband while he was on his deathbed simply to keep her from inheriting from him and the family claims that he divorced her while he was healthy, given no other evidence, the wife's claim will be upheld because the divorce was a new event that did not previously take place and it must therefore be ascribed to the most recent time, which is while the man was near his death. However, the question that the author is dealing with in the text is not quite the same. The issue above is concerned with the woman definitely being divorced while the husband is on his deathbed. Is she still entitled to her dower as her husband may have divorced her simply to keep her from getting her dower or inheritance? In other words, in this case it is well-known that she was divorced while he was on his deathbed and there is no dispute over whether or not she was divorced. Hence, it seems that this fiqh principle quoted by the author is irrelevant here. Allah knows best.—JZ]

entitled to her complete dower as he has done with her what is not permissible for others to do."[1]

The evidence for this opinion is the following:

First, al-Daaraqutni recorded in his *Sunan*[2] from Muhammad ibn Abdul Rahmaan ibn Thaubaan that the Messenger of Allah (peace be upon him) said,

من كشف خمار امرأة ونظر إليها وجب عليه الصداق دخل بها أو لم يدخل

"Whoever uncovers the headcovering of a woman and looks at her must pay the dower, whether he consummated with her or not."

Second, by such actions, he is physically enjoying the woman and so he must pay the entire dower as he would if he had sexual intercourse with her. This is because touching falls under the implication of the verse in the Quran,

وَإِنْ طَلَّقْتُمُوهُنَّ مِنْ قَبْلِ أَنْ تَمَسُّوهُنَّ وَقَدْ فَرَضْتُمْ لَهُنَّ فَرِيضَةً فَنِصْفُ مَا فَرَضْتُمْ

"If you divorce them before 'touching them' and you have determined their dowers, then they shall receive half of the dowers..." (*al-Baqara* 237).

However, these two proofs are objected to. First, the hadith contains ibn Laheeah[3] who is weak and whose narrations cannot be used as evidence. Even if one were to assume that it is authentic, it would be understood to mean that such took place when the two were in private as there is a consensus that if something of that nature takes place in front of others, the dower does not become obligatory.

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[1] *Al-Mughni* by ibn Qudaamah al-Hanbali, vol. 10, p. 157; *al-Insaaf fi Marifah al-Raajih min al-Khilaaf* by al-Mardaawi, vol. 8, p. 287.

[2] *Sunan al-Daaraqutni*, vol. 3, p. 207, hadith #232, from the chapters on the dower.

[3] *Talkhees al-Habeer*, vol. 3, p. 193, hadith #1555.

As for the verse, it is not a clear text concerning this issue because the apparent meaning of the word "touch" in the verse is actually sexual intercourse. In other words, it means that the complete dower is not required if no sexual intercourse took place. However, even that action is not required because there is a consensus among the Companions that if the person is completely alone with the woman he must pay the complete dower. As for cases other than being in private with her, the generality of the verse is left as it is [in other words, it applies to sexual intercourse only]. This is the opinion of the majority of the jurists.[1] Allah knows best.

Paying Half of the Dower

Jurists are agreed[2] that the wife has a right to only half of her agreed upon dower that was part of a sound marriage contract, if the husband divorces her before consummating the marriage or before being in complete privacy with her. This is based on the verse,

وَإِنْ طَلَّقْتُمُوهُنَّ مِنْ قَبْلِ أَنْ تَمَسُّوهُنَّ وَقَدْ فَرَضْتُمْ لَهُنَّ فَرِيضَةً فَنِصْفُ مَا فَرَضْتُمْ

"If you divorce them before 'touching them' and you have determined their dowers, then they shall receive half of the dowers..." (*al-Baqara* 237).

However, the scholars differ concerning what the woman is entitled to if they are separated but not divorced, due to an act by the husband, such as apostasy, or the act of a third person, such as they discover that they have been breastfed by the same woman. [Hence, the separation was not due to any fault of the woman.] The first opinion is that in such a case, the woman is to receive half of her dower. This

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[1] *Al-Mughni*, vol. 10, p. 158.
[2] *Badaai al-Sanaai*, vol. 2, p. 296; *al-Sharh al-Sagheer*, vol. 2, p. 454; *Bidaayah al-Mujtahid*, vol. 2, p. 23; *al-Muhadhib*, vol. 2, p. 59; *Kishaaf al-Qinaa*, vol. 5, pp. 165, 171 and 176.

opinion is based on an analogy with divorce [without sexual intercourse] and because the separation was not caused by her. This is the view of the majority of jurists.[1]

The second opinion is that the woman is not entitled to anything of the dower. This is the opinion of the Dhaahiris (Literalists).[2] They adhere to the strict literal meaning of the verse, although it is regarding one who is divorced before consummation and not one whose marriage is dissolved.

The stronger view is that she is deserving of half of her dower. This will lessen her pain and suffering. Furthermore, preventing her from that dower will cause her undue harm for something that was not her fault.

The following question now arises: Does divorce or annulment before consummation but after complete seclusion require half of the dower to be paid or does it take on the same consequences as consummation with respect to requiring the entire dower to be paid? We have already stated that the strongest opinion is that a complete seclusion with the wife requires that all of the dower be paid to her. In order to make this issue clear, it is appropriate for us to quote the statements of jurists on this issue followed by a discussion demonstrating the strongest view.

Jurists are divided into two opinions on this question. The first opinion is that the private seclusion has no effect on the dower, meaning that divorce or annulment before it or after it will still require only half of the dower to be paid [as long as no consummation took place]. This is the opinion of Imam Malik according to one of his two statements,[3] al-Shafi'ee in his new opinion,[4] and Ahmad ibn Hanbal in what is narrated

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[1] *Bidaayah al-Mujtahid wa Nihaayah al-Muqtasid* by ibn Rushd, vol. 2, p. 20.
[2] Ibid.
[3] *Ahkaam al-Quran* by ibn al-Arabi, vol. 1, p. 218; *al-Mudawwanah al-Kubra*, vol. 2, p. 222.
[4] *Haashiyah Qalyoobi wa Umairah ala Sharh al-Minhaaj*, vol. 3, p. 278.

by Yaqoob ibn Bakhtaan.[1] It is also narrated from ibn Abbaas and ibn Masood.[2]

The second opinion is that the private seclusion is the same as consummation with respect to establishing the obligation of paying the entire dower. This is the opinion of the Hanafis,[3] Imam Malik in a second statement from him,[4] al-Shafi'ee according to his old opinion and Ahmad according to the strongest narration from him.[5] This has also been narrated from the rightly-guided caliphs (Abu Bakr, Umar, Uthmaan and Ali) as well as from other Companions.

The Evidence

Those who say that being in seclusion with the bride has no effect in establishing the payment of the entire dower cite the following as evidence:

First, Allah says in the Quran,

وَإِنْ طَلَّقْتُمُوهُنَّ مِن قَبْلِ أَنْ تَمَسُّوهُنَّ وَقَدْ فَرَضْتُمْ لَهُنَّ فَرِيضَةً

فَنِصْفُ مَا فَرَضْتُمْ

"If you divorce them before 'touching them' and you have determined their dowers, then they shall receive half of the dowers..." (*al-Baqara* 237). The verse clearly states that the one who is divorced before being "touched" receives half of what was determined as her dower. The divorced woman before consummation, although after private seclusion, has not been "touched" because "touch" is a figurative expression for sexual intercourse. Hence, the verse is directly including the case of the woman with whom the man has been alone but with whom he has not had sexual intercourse.[6]

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1 *Al-Mughni*, vol. 10, p. 153; *al-Insaaf*, vol. 8, p. 283.
2 *Al-Sunan al-Kubra* by al-Baihaqi, vol. 7, pp. 254-255, Chapter on a man who is alone with his wife and then divorces her before touching her.
3 *Al-Mabsoot*, vol. 5, pp. 64-65.
4 *Al-Sharh al-Sagheer* by al-Dardeer, vol. 2, p. 238.
5 *Al-Insaaf*, vol. 8, pp. 283-285.
6 *Ahkaam al-Quran* by ibn al-Arabi, vol. 1, pp. 218-219.

This argument has been responded to by saying that the text is not definitive in its indication as it could be a case where Allah is indirectly mentioning the causative factor instead of the cause itself, which is being in seclusion with the woman. This interpretation is given a stronger weight because it is consistent with the consensus of the Companions who agreed that private seclusion has the same ruling as consummation with respect to entitling the woman to her complete dower. Imam Ahmad and al-Athram related through their chain of authorities from Ziraadah ibn Abu Aufa who said, "The rightly-guided caliphs ruled that if someone closes the door or pulls the curtain [putting him and his bride in privacy], the dower and waiting period [in case of divorce or death] become obligatory." The Hanafis also relate the same from Umar and Ali. It is related from Saeed ibn al-Musayyab and Zaid ibn Thaabit that they said, in such cases, that she must observe the waiting period [in case of divorce or death] and she is entitled to her entire dower. Ibn al-Mundhir has also recorded this same opinion from Abdullah ibn Umar, Jaabir and Muadh ibn Jaabir.

This was a well-known question at that time and no one differed with that opinion. Therefore, it was a consensus. It has been narrated that ibn Abbaas held an opposing view to that consensus but such narrations are not authentic. Imam Ahmad stated that such [an opinion from ibn Abbaas] was narrated from Laith and he was not a strong narrator. Handhalah narrated the opposite of what Laith narrated and Handhalah is stronger in narration than Laith. Also, as for what has been narrated from ibn Masood stating that he also differed from the consensus, such narrations have broken chains to them [and are therefore not considered authentic or proofs].[1]

[Those who say she is entitled to half of her dower also quote] Allah's saying in the Quran,

وَكَيْفَ تَأْخُذُونَهُ وَقَدْ أَفْضَى بَعْضُكُمْ إِلَى بَعْضٍ

"And how could you take it [the dower back] while you have gone into each other" (*al-Nisaa* 21). The argument here is that "gone into each

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[1] *Al-Mughni*, vol. 10, p. 154.

other" means having sexual intercourse.[1] This indicates that the dower is not obligatory except after consummation. This makes it clear that the earlier verse is explaining the case of divorce before consummation while this is explaining the case of divorce after consummation. Obviously, there is no intermediate case. Therefore, being in private does not entitle the woman to her entire dower if there was no consummation.

This argument is responded to by saying that "gone into each other" does not necessarily imply sexual intercourse. It is narrated that al-Farraa [the Arabic language expert] said, "Gone into each other means complete privacy, whether the marriage was consummated or not. This is the correct opinion because the word used in the verse is derived from the word implying 'an open space' or a deserted land. In other words, it is as if Allah had said, 'And you have been alone with each other.'"[2]

Third, being alone with the wife after the marriage contract could not imply that she is entitled to her entire dower as being alone with a woman outside of marriage does not entitle her to such.[3] One may respond to this argument by saying: Being alone after the sound marriage agreement makes the matter of greater importance and it takes on the same ruling as consummation, as opposed to being alone with a woman outside of marriage which has no legal effect.[4]

Those who say that being in complete privacy with the bride entitles her to her entire dower cite the following as evidence:

First is what is recorded by Abdul Razzaaq in his *Musannaf* on the authority of Abu Huraira who said that Umar said, "If the curtains are drawn or the doors are locked, the [complete] dower becomes obligatory."[5]

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1 *Bidaayah al-Mujtahid*, vol. 2, p. 19.
2 *Al-Mughni*, vol. 10, p. 154.
3 *Fath al-Qadeer*, vol. 2, p. 446.
4 *Athaar Aqd al-Zawaaj fi al-Shareeah al-Islaamiyyah*, p. 143.
5 *Al-Sunan al-Kubra* by al-Baihaqi, vol. 7, pp. 255-256; Malik also recorded it in his *Muwatta* (vol. 2, p. 528) from Saeed ibn al-Musayyab on the authority of Umar with a *sahih* chain.

Second, when the impediments [to sexual intercourse] are removed, she, in essence, has been given over to him and therefore she is deserving of her right in exchange for that.[1]

Third, the obligation of paying the entire dower is not conditional upon fulfillment with the woman but it is simply conditional upon her being given over to him in the proper way, as in other similar contracts, such as selling or leasing.[2]

The Strongest Opinion

Looking at what both sides have presented as evidence as well as the rebuttals of the evidence for the first opinion, the second opinion is considered the stronger and choice opinion. That is, a true private seclusion with the bride entitles her to her entire dower as long as it was truly private and the result of a sound marriage contract. This is considered the stronger view also due to the fact that the Companions, those who lived at the time of the revelation and who understood its real essence, made such a decree. Furthermore, being in private with the bride is a factor leading to sexual intercourse and the factor itself takes on the same ruling as the act it leads to.[3]

However, if the act of being in private with the bride is not, in reality, a completed act that could lead to sexual intercourse due to some impediment, whether it be a *shareeah*, physical or natural impediment, the woman is then entitled only to half of her dower. This is because the dower is a matter related to wealth and such matters are not established on the basis of doubts or conjectures.[4] The exception to this is if the woman claims that she had been "touched" by him even though the impediments were present. In this case, she will be entitled to her entire dower if she makes an oath stating that her claim is true. Allah knows best.

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[1] *Fath al-Qadeer*, vol. 2, pp. 445-446.
[2] Ibid.
[3] *Al-Mugni*, vol. 10, p. 154.
[4] *Al-Insaaf*, vol. 8, p. 282, 286.

The Question of Being Alone with One's Fiancee before the Actual Contracting of the Marriage

This practice of the man being alone with his betrothed, so that they may experience and know each other as a means leading to love between them, is an evil practice and a terrible phenomenon that exists in many Muslim lands.

This distasteful custom has slowly crept over Muslim societies and has now become a blind custom that people follow and that is supported by the evildoers and ignorant people in the name of "civilization"— the deceitful civilization that is fighting us in our religion, morals and ways. We have become such prisoners to this way that the betrothed mix with one another in a most shameful and disgusting way, without anything watching over them, neither a chaperone, conscience, family or religion.

The engaged man and woman get together before the marriage has taken place and go out together [on dates] to clubs and places of forbidden enjoyment based on the argument that they are going to be husband and wife. They remain alone together and both his and her family know about that but they put up no objection whatsoever. After the viper [the man] has exhausted what he can from her and becomes bored with the woman, he will flee from her due to any flimsy excuse and, due to him, she will have to face disgrace and dishonor. Due to such practices, a great deal of evil spreads, such as illicit sexual relations, and the woman is then not able to find a husband in the future.

In the newspapers and media we hear of things that are very embarrassing and shameful that exist in the Muslim world as the result of this evil practice. In fact, in some of those lands it has become commonplace for the woman to lose her virginity before marriage and for the people's honor to be lost. We ask Allah only for safety and well-being.

In their ignorance of the laws of Islam, they claim, and they are completely wrong, that when the two are engaged and on the road to getting married, then the things that are permissible under marriage

become permissible for them. That is why they allow the two to be in complete privacy with one another. They claim that in this way they will get to know one another and begin to love one another. However, they are completely and dangerously mistaken. The nature of engagement is completely different from the state of being married. Nothing of what becomes legal due to the marriage contract becomes legal simply due to an engagement. Furthermore, no matter how much the man is in the company of his fiancée, he will never actually discover her true nature [from such experiences]. In the same way, she will not discover his true nature by such meetings. This is because in such meetings, they both present themselves in ways that are different from how they customarily are. They try their best to show their good side and hide anything evil they may possess.

If one really wants to know about the other's character, nature and manners, the best and safest way to do so is by asking [those people who know that man or woman well]. May Allah guide all to what is beloved and pleasing to Him and provide us all with understanding of the laws of the religion and the ability to act according to the *shareeah* of Islam.

Yes, it is true that Islam allows the man, if his intention is strong and he has taken the normal, proper path to marriage, to look at the potential bride but it must be according to certain conditions and in a specific way as spelled out in detail in their proper place [in the books of fiqh]. However, if the matter reaches a point where the people are doing what Allah has forbidden, then its result will be loss and harm.

We will not prosper unless the young ladies return to their protected status and customs that keep them from being treated like cheap commodities that may be used and abused. She should be protected in her proper attire and manners and in that way the wolves among men will not be able to reach her. In that way, she will be sought after in the right manner with all due respect and proper treatment.

Cases Wherein the Man is Not Obliged to Pay Any Portion of the Dower

The obligation of giving the dower is completely dropped in the following four cases:[1]

(1) Separation other than Divorce and before Consummation or before Complete Privacy with the Wife

Any type of separation, other than divorce, before consummation or complete privacy means that the man does not have to pay any portion of the dower. This is the case whether the separation was from the wife's side or from the husband's side. For example, if the woman apostatizes from Islam or if the man refuses to become Muslim while the wife embraces Islam, the man does not have to pay any portion of the dower. Other examples include the wife choosing to dissolve the marriage due to a defect in the husband or the guardian of the wife dissolving the marriage because the husband is not qualified. In these cases, in which the marriage is completely annulled and there is no consummation, the obligation of the dower is completely dropped. This is because separation other than divorce annuls the contract. Annulling the contract before consummation necessitates that the entire dower also be annulled. In other words, annulling the contract makes it as though the contract never occurred in the first place.

The Malikis say that if the husband annuls the marriage or returns the wife due to some defect or problem with her before consummation, then he is not obliged to pay any portion of the dower. Furthermore, she is not entitled to anything in the case of a marriage by proxy if the husband dies or if he divorces her before consummation.[2]

The Shafi'ees[3] and the Hanbalis[1] distinguish between the case where the separation is due to a cause from the wife and when it is due

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[1] *Badaai al-Sanaai fi Tarteeb al-Sharaai*, vol. 2, p. 295.
[2] *Al-Qawaaneen al-Fiqhiyyah*, p. 203; *al-Sharh al-Sagheer*, vol. 2, p. 437.
[3] *Mughni al-Muhtaaj*, vol. 3, p. 234.

not to any fault or cause of her own. If the separation takes place before consummation and due to the wife, then she is not entitled to any of the dower, regardless of the nature of the dower. This would include the following cases: she becomes Muslim [and not her husband]; one of her parents becomes Muslim [and she is still underage]; the husband annuls the marriage due to a defect or problem with her; she apostatizes; or if she had been breastfed by one of her husband's wives while she was small.

When the separation takes place before consummation and is not caused by the wife, she is entitled to half of her dower. This would include divorce or *khula*,[2] even if it were by her own choice, such as when she is empowered with the right of divorce and she gets herself divorced or if the husband makes a conditional divorce conditioned by an act that she performs. It also includes the cases where the husband becomes Muslim[3], apostatizes, separates from her due to accusing her of illegal sexual intercourse, or in the case where she was breastfed by his mother or he was breastfed by her mother when he was small. In the case of divorce, though, the previously mentioned verse, "If you divorce them before 'touching' them..." takes effect.

(2) In the Case of *Khula*[4], Either before or after Consummation, Wherein the Wife Agrees to Return Her Dower

If the two are separated through *khula* wherein they agree that the woman will return her entire dower, then the obligation to pay the dower is dropped. If the dower was one that the woman had not previously taken possession of, then the husband is freed from any

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1 *Kishaaf al-Qinaa*, vol. 5, pp. 157, 163, 167; *al-Insaaf*, vol. 8, pp. 277-280.

2 [*Khula* is considered different from divorce by many scholars while others treat it as a type of divorce. In *khula*, the wife agrees to pay something to the husband in order to be released from the marriage.—JZ]

3 [This would be true only if the wife were neither a Christian or a Jew.—JZ]

4 [*Khula* is considered different from divorce by many scholars while others treat it as a type of divorce. In *khula*, the wife agrees to pay something to the husband in order to be released from the marriage.—JZ]

responsibility to now pay it. If the woman had taken possession of the dower, she is to return it to the husband. If the *khula* is made wherein it is agreed that she is to pay some wealth other than the dower to the husband, she must pay that wealth that they agreed upon. After *khula*, the husband is free of any obligation that was the result of the marriage contract, including maintenance and the dower. This is because in the case of *khula*, although it is a type of divorce based on compensation, there is the implied meaning of freeing him from any responsibility.

(3) When the Wife Frees the Husband of the Obligation of the Dower, Either before or after Consummation

If the wife is from those people who can donate wealth and the dower is one that the husband has to pay in the future, such as money or specific weight or amount of some item and not something specific that was a purpose in itself, she is allowed to free him from that obligation. This is because she is in a position where she has the right to drop that obligation from the husband.

(4) When the Wife Gives the Entire Dower as a Gift to the Husband

When the woman is qualified to give gifts or donations [such as when she is adult] and the husband agrees to accept the dower as a gift, [she may return the entire dower to the husband], regardless of whether that was before she took possession of the dower or afterwards.

Giving a gift of a dower differs from freeing the husband of the responsibility of paying the dower in that giving the dower as a gift applies when the dower is a debt upon the husband or it is something specific that he is to give, or something like cash or a specific article of clothing or an animal. However, freeing the husband of responsibility of paying the dower is only when the dower is a debt upon the husband.

The Ruling Concerning Paying the Dower on the Spot or over Time

It is proper for the dower to be paid either promptly or over time. It is also proper if part of it is paid promptly and the remainder is to be paid at a later time. This is because it is a type of transaction and, therefore, it is allowed to be delayed, in the same way that one may pay for the price of something over time. The portion that is to be paid at the time of the marriage is to be given to the wife before consummation and she may refuse the consummation until it is given to her.

As for the delayed portion, it is what is agreed upon between the two spouses to be delayed until after consummation.

The jurists state that it is acceptable to pay the dower at a later time [if such is agreed upon]. The Hanafis say,[1]

> It is sound for the dower to be promptly paid or all of it delayed or part of it delayed until a near or far off time, or even until whatever occurs first of divorce or death, depending on the customs and manners prevalent in any Islamic country. However, this is conditioned by the time set not being completely unknowable, such as "when the gale wind blows," or "when it rains." It is not allowed to agree to such a timing that is completely unknown. If the two explicitly agree that the dower shall be paid off in payments, such is supposed to be done [even if it goes against the prevailing customs]. This is because the agreement is an explicit type of sign while the custom is only an indication. The explicit sign is stronger than the indication. If they do not agree to pay the dower promptly or to delay its payment, then one goes by the prevalent custom of that country because "what is known to be custom is equivalent to a condition that is stated." If there is no prevalent custom concerning prompt or delayed

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[1] *Badaai al-Sanaai*, vol. 2, p. 288.

payment, the dower can be demanded in full at the present time [of the marriage]. This is because the ruling in the case where delay is not specifically mentioned is that of prompt payment because prompt payment is actually the original or basic ruling.

The Shafi'ees[1] and the Hanbalis[2] allow the delaying of payment for all or part of the dower on the condition that the timing is known. This is because the dower is a compensation in a transaction and if its payment is left open, it is then to be due immediately. If it is delayed until an unspecific time, such as "when Zaid arrives" or "when it rains," it is not sound because its actual time is unknown. However, according to the Hanbalis, if the dower is left to be paid at a later date and such a date is not specified, it is to be paid when the two separate or upon the death of one of them. According to the Shafi'ees, such a dower is void and the woman is to receive the dower of those who are similar to her.

The Malikis[3] distinguish between different cases when it comes to delaying the payment of the dower. They say that if the dower is something specific and present in the town, such as a house, clothing or animals, the groom must give it to the bride or her guardian on the day of the contract. It is not allowed to state in the contract that the dower will be paid later, even if she is pleased with such a delay. Such a condition in the contract voids the contract. The exception is if the time stated is something very soon, such as two or five days. Furthermore, it is allowed for the woman to allow a delay in the payment without that being made a condition in the contract though. In other words, it her right to receive the dower as soon as possible.

If the dower is something specific that is not in the city, the marriage contract is valid if the payment of the dower is specifically stated to be delayed a little. The time limit is such that the article being given as a dower will not change due to the elapsed time. Otherwise, the contract is void.

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1 *Al-Majmoo*, vol. 15, p. 484.
2 *Al-Sharh al-Sagheer*, vol. 2, pp. 432-433.
3 *Al-Mughni*, p. 122; *al-Insaaf*, vol. 8, p. 244.

If the dower is not a specific item, such as simply cash, an amount or weight of something, it is then allowed to delay its payment, either in part or in toto. It is allowed for it to be delayed until a time that is known [and not ambiguous], such as the time of harvest, summer or the gathering of the fruits. One may also delay the payment until it is easy for the groom to pay it, if he is a person of means, such as if he has some merchandise for which he is waiting to receive its price or if he has a regular salary. However, if the groom is poor, such is not valid. It is also allowed for it to be delayed until the bride demands it, which would have the same ruling as delaying it until it is easy for the groom to pay it.

Therefore, there are two conditions that must be met in order for it to be permissible to delay the payment of the dower. First, the term for the payment must be known. If it is unknown, such as agreeing to delay it until death or separation, the contract becomes void. It is a must to annul the contract unless the man has already consummated the marriage, in which case it is obligatory for the woman to be paid the dower which is paid to women similar to her.

Second, the time period for the payment must not be a lengthy one, such as fifty years or more. In this case, it would be similar to not having a dower in the first place. Consummating the marriage upon not having a dower voids the marriage.

In sum, I have mentioned to you what I have come across of the statements of the jurists, their different views and resulting opinions concerning this issue. The truth that one must not deviate from is the following:

If the delayed payment is for a specified time and meets the conditions just stated above and it is done for the benefit of the two spouses or for the benefit of one of them, then the delay in payment is permissible, although it goes against what is preferable. Delaying the payment of the dower was something unknown at the time of the Prophet (peace be upon him). Furthermore, one must not make an analogy between marriage and any other type of transaction. If the delayed payment is to be made upon death or divorce, this leads to many negative results due to its uncertainty. No one except Allah knows when one's time will come and also no one knows if or when divorce will

come about. One of the greatest negative results from such a practice is that it puts the man into a situation where he keeps his wife, although he has no desire for her, only because if he divorces her he knows that she will then seek her dower. This will also cause other problems either from the side of the husband, who will try to force the woman to ransom herself from the marriage and give up her rights, or from the side of the wife who may try to force the husband to do what he does not want to do.

Therefore, the truth is that agreeing to delay the payment of the dower until divorce or death is a phenomenon that should not exist in Muslim marriages. Allah knows best.

The Ruling Concerning a Portion of the Dower Paid in Advance or a Gift Given to the Bride in the Case Where the Man Decides Not to Marry the Woman

It is a common custom to give the dower before the marriage contract takes place. It is also a common custom for the man to present his fiancée with plenty of consumable gifts and other items in order to strengthen the bond of love and closeness between the two. If such pre-marriage dower or gifts are given and then it turns out that the marriage is not performed, due to some reason from his side or her side, a question arises concerning what has previously been given by the man. The scholars agree that if what was given was supposed to be part of the dower and it still exists in its original form, then the man may request all of it back.

However, if that money was used to purchase the furniture, for example, of the new couple's house, then there are two opinions among the jurists as to whether the value of the dower must be returned or what was purchased with the money must be returned. The first opinion is that it is obligatory to return what was given as a dower. This is because the dower is giving in exchange of enjoying the wife and the contract was not completed, so exactly what was given, if it still exists, must be

returned. If what was given has been used up or consumed, then its value must be returned. This is the view of the majority of the jurists.[1] The second opinion is that whatever was bought for the house is not to be returned if such was bought with the man's permission, knowledge or according to the prevailing custom. Otherwise what was given as a dower is to be returned to the man. This is the view of the Malikis.[2]

Looking at those two opinions, it seems best to choose the opinion of the Malikis. This is because if the fiancée is forced to return what was given of the dower, although he joined with her in buying the items or permitted her to do so, even if indirectly by not stopping her, that would cause her some harm because it will not be easy for her to sell those items at the same price that she bought them for. Furthermore, she may not need them and therefore she will face a financial penalty although she did not commit any wrong.

This is if the marriage was called off from the side of the husband. If it is called off from the fiancée's side, the man has the definite right to demand what he had given as dower, in order to prevent him from being harmed.[3]

Ruling Concerning What Was Given as a Gift

There are four opinions among the jurists concerning requesting the fiancée to return what was given to her as a present.

The first opinion: It is allowed to return the gift if the gift is still in the possession of the one to whom it is given and she had not done any kind of transaction with it that took it out of her possession. If it had been consumed or if it had been changed, such as material that was sewn, or if the woman had dispensed with it, then the man has no right to request its return or to seek something similar to it or its value.

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[1] *Bidaayah al-Mujtahid wa Nihaayah al-Muqtasid* by ibn Rushd, vol. 2, p. 21.
[2] *Al-Mudawwanah al-Kubra*, vol. 2, p. 177.
[3] *Athaar Aqd al-Zawaaj fi al-Shareeah al-Islaamiyyah* by Ahmad Uthmaan, pp. 48-51.

Similarly, he cannot seek its return if it were perishable food items, even if it is still existing. This is the view of the Hanafis.[1]

The second opinion: Nothing of these gifts is to be returned to the man, even if the marriage was called off by the woman, unless such has been made a condition or it is the prevailing custom among the people. This is the view of some of the Malikis.[2]

The third opinion: The man may request the return of all gifts no matter what type they were. If the gifts still exist as they were, they are to be returned. If one cannot return the actual gift, one must then return their value. This is the opinion of the majority of the Shafi'ees.[3]

The fourth opinion: If the proposal was ended by the party who had received the gifts, they must return the gifts. This is because the reason the presents were given was never fulfilled. If the proposal was ended by the party giving the gifts, he has no right to request the return of the gifts. This is the opinion of al-Rafi'ee among the Shafi'ees, ibn Rushd and al-Liqaani of the Malikis and Shaikh al-Islaam ibn Taimiya.[4]

From the above presentation of the different views, it is clear that the most just opinion, without any doubt, is that the woman must return the gift itself, if it is still existing with her, or its value, if it has been destroyed or consumed, when the end to the engagement came from her side. This is because it is unjust for the man, the gift giver, to have to face the pain of his engagement coming to an end as well as endure a financial penalty. Similarly, if the engagement is broken off by the gift-giver, then the gifts are not returned to him so that the woman is not faced with the pain of the engagement being broken off and having to return the gifts she received.[5] Allah knows best.

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1 *Radd al-Muhtaar ala al-Durr al-Mukhtaar* by ibn Abideen, vol. 2, p. 374.

2 *Al-Furooq* by al-Qaraafi, vol. 3, p. 148; *Ahkaam al-Ahwaal al-Shakhsiyyah* by Abdul Rahmaan Taaj, pp. 172-173.

3 *Hashiyataa Qalyoobi wa Umairah ala Sharh al-Minhaaj*, vol. 3, p. 216; *Qawaaid al-Ahkaam*, p. 56.

4 *Ikhtiyaaraat ibn Taimiyah*, p. 138; *Bidaayah al-Mujtahid*, vol. 2, pp. 21-23; *al-Majmoo*.

5 *Athaar Aqd al-Zawaaj fi al-Shareeah al-Islaamiyyah*, p. 50.

Engagement Rings: Their Ruling for Either Men or Women

An engagement ring is often one of those gifts that the fiance gives the fiancée before the marriage contract. This is a newly adopted custom and an objectionable innovation.

The engagement is actually just an initial request and preparatory step towards the marriage and it is only by the marriage itself that the rights and obligations are established. That is the nature of the engagement or proposal. However, some people— may Allah guide them— have introduced many customs and forms into the engagement. For the proposal or engagement, they have a big party in which they invite members of the man's family and members of the woman's family. They prepare special foods, desserts, coffee and tea for that occasion. They have other customs and practices for that occasion as well; in some lands there are more while in others there are fewer. They do that to announce the engagement. On that occasion, some of the Muslims recite *soorah al-Faatiha*. Also, the fiance gives the fiancée an engagement ring. The engagement becomes known to everybody by the woman wearing the engagement ring. There is nothing in Islam that indicates that such a practice should take place. In fact, it is following the customs of others, as such a practice was a Pharaonic practice while others say that it is the custom of the Christians.[1] In any case, the exchange of engagement rings is a foreign practice that has been adopted by Muslims and it does not form part of the religion at all.

"The jurists are agreed that it is permissible for the women to wear a gold ring and that such is forbidden for men."[2] The evidence that gold rings are forbidden for men and permissible for women are too many to recount. Such evidence includes what Abu Hurairah reported that the Prophet (peace be upon him) prohibited gold rings [for men].[3]

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1 *Masari al-Shirk wa al-Khuraafah*, pp. 387-388.
2 *Al-Mausooat al-Fiqhiyah al-Kuwaitiyah*, vol. 11, p. 23.
3 Recorded by al-Bukhari (#5864), the Book of Dress, Chapter on gold rings; Muslim (#2089), in the Book of Dress, Chapter on the prohibition of gold rings for men and the abrogation of what was permitted in the beginning of Islam.

Ibn Umar stated that the Prophet (peace be upon him) used to have a ring of gold and he would wear it on his right hand. The people then followed suit and wore gold rings. Then the Prophet (peace be upon him) discarded it and said,

لا أَلْبَسُهُ أَبَدًا

"I will never wear it." So the people also discarded their rings.[1]

It has been stated that Abu Bakr ibn Hazm said that such rings are permissible for men and it has also been narrated from another that such rings are simply disliked and not forbidden. In his commentary to *Sahih Muslim*,[2] al-Nawawi wrote, "Those two reports are incorrect and those who stated them are defeated by these hadith."

Furthermore, it is a case of blind imitation and resembling the disbelievers. The Prophet (peace be upon him) warned us about resembling, imitating and following the disbelievers. Ibn Umar narrated that the Messenger of Allah (peace be upon him) said,

مَنْ تَشَبَّهَ بِقَوْمٍ فَهُوَ مِنْهُمْ

"Whoever resembles a people is one of them."[3]

The prohibition due to that cause, due to the act of imitation or resembling the disbelievers, includes all forms of engagement rings, whether they are of gold or of other material. Furthermore, this prohibition covers equally both men and women.

The Muslim who resembles the disbelievers, in any form of outward resemblance, such as in his clothing, manners or movements, is indicating that he has an inward feeling of love for them that is demonstrated by his resembling them. This is true because imitation comes from being pleased with them or from a feeling that the others are

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[1] Recorded by Muslim in his *Sahih* (#2091), the Book of Dress, Chapter on the prohibition of gold rings for men.

[2] Vol. 14, p. 65.

[3] Recorded by Abu Dawood (#4031); Ahmad in *al-Musnad*, vol. 2, p. 50; Shaikh al-Islam ibn Taimiyah considered its chain good, as he stated in *Iqtidhaa al-Siraat al-Mustaqeem*, vol. 1, p. 236 and *Majmoo al-Fatawa*, vol. 25, p. 331.

better than the person himself. This implies ignorance of the laws of the religion. A Muslim must have [due to his being a believer in Allah] enough self-respect that it keeps him from falling into these types of acts of imitation.

Chapter Two
Announcing the Marriage and Making it Known

The Ruling Concerning Making the Marriage Known

The majority of the scholars say that making the marriage known publicly is a recommended act.

Al-Zuhri was of the opinion that the announcing of the marriage is obligatory. In fact, he said that if a secret marriage is contracted and two male witnesses were present but those witnesses were ordered to keep the marriage secret, then one must separate the man and the woman. The woman is then to enter her waiting period and she is to receive her dower. If they insist on getting married before her waiting period is over, they may remarry but they must publicly announce the marriage.[1]

The Meaning of Announcing the Marriage

To announce the marriage is to publicize it and spread the news about it.

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[1] *Al-Mausooah al-Fiqhiyyah*, vol. 5, p. 262 (Wizaarah al-Auqaaf, Kuwait).

What Constitutes Announcing the Marriage

This can be done by beating the handdrum and by permissible singing. It is preferred on joyous occasions to spread joy and happiness among the people. Such occasions include the days of eid, weddings, when a person who has been gone arrives, wedding feasts, *aqeeqahs*[1] or at the time of having a child. Islam permits joy, happiness and pleasure within the limits of general manners and the confines of the *shareeah*. It is something that relaxes one soul and the soul craves such feelings according to what is natural in humans; and Islam is the religion of proper behavior and of what fits the natural tendency of humans. It is also a realistic or practical religion and it is not based on unreachable examples or dreams. Instead, it deals with humans on practical grounds and in our earthly existence. It deals with humans as beings that eat food and walk through the marketplaces. For that reason, it does not require that every word that comes from his mouth be a type of remembrance of Allah or that every moment of silence is in deep introspection or that everything he hears is only the Quran or that all of his free time is spent in the mosque. Islam recognizes his natural inclinations and needs that Allah has made in him. And Allah has created him with that natural inclination towards happiness and joyfulness in the same way that he is inclined to food and drink.

Included among the pleasing acts of amusement is the playing of the *duff* ("handdrum"), reciting of poetry, announcing the marriage, and displaying happiness and pleasure that are related to this happy occasion.

It has become customary for some people — may Allah guide them— during this time in which religious consciousness is low and ignorance of the laws of the pure religion is commonplace, to use musical instruments, both old and modern varieties, and microphones at the wedding parties and to introduce the male and female singers and musicians and to listen to the licentious music and songs that stir the soul. This action is one concerning which a person should fear its evil

[1] [An *aqeeqah* is the slaughtering of an animal and its related giving of food or meals after the birth of a child.]

end. If you were to ask one of those people about such actions [like music and singing in that manner] they will say that it is a necessary part of showing one's joy and happiness on such an occasion.

For this reason, it is absolutely necessary to distinguish the acts of amusement and singing (or reciting) which are sanctioned and permissible from those which are forbidden and prohibited.

In sum, acts of amusement and poetry recitals must fall into one of two cases:[1]

(1) There is that type of reciting that the people are used to and use on many occasions, such as *eids*, weddings, circumcisions, arrival of people who have been gone and other joyous occasions. As for this type of amusement, if it is free from clear or implicit lewdness and free of exhorting people to sinful acts or mentioning of forbidden aspects, then there is no question that it is allowed according to the people of knowledge.

There are many hadith that indicate its permissibility during such occasions. These hadith include the following:

Ibn Maajah[2] recorded on the authority of Anas ibn Maalik (may Allah be pleased with him) that the Prophet (peace be upon him) passed by one of the wedding processions in Madinah from his neighbors and the women were beating their *duffs* and singing,

"We are neighbors from the Tribe of Najjaar
and what a wonderful neighbor is Muhammad."

The Prophet (peace be upon him) then said, "Allah knows that I certainly love you all."[3]

Al-Haakim recorded in *al-Mustadrak* from Aishah who said that the Prophet (peace be upon him) heard some people singing the following during one of the weddings,

"I am giving her sheep confined in pens

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[1] See *Tahreem al-Nard wa al-Shatranaj wa al-Mulaahi* by al-Haafidh al-Aajuri, pp. 81-310.

[2] *Sunan ibn Maajah*, vol. 1, p. 350, Chapter 21 of the Chapters on Marriage, Number 1906.

[3] [According to al-Albaani, this hadith is *sahih*. See Muhammad Naasir al-Deen al-Albaani, *Saheeh Sunan ibn Maajah* (Riyadh: Maktab al-Tarbiyyah al-Arabi li-Duwal al-Khaleej, 1986), vol. 1, p. 321.—JZ]

Your love is where the people assemble and he knows
what will happen tomorrow."

The Prophet (peace be upon him) then said, "No one knows what tomorrow contains except Allah." Al-Haakim stated that this hadith is *sahih* according to Muslim's criteria although Muslim did not record it.[1]

Al-Tirmidhi recorded through his chain from Muhammad ibn Haatib al-Jumahi that the Messenger of Allah (peace be upon him) said,

فَصْلُ مَا بَيْنَ الْحَرَامِ وَالْحَلالِ الدُّفُّ وَالصَّوْتُ

"Distinguishing between the forbidden and the permissible [with respect to marrying a woman] is the *duff* and the voice [of singing]." Al-Tirmidhi stated that Muhammad ibn Haatib is a good narrator. Al-Haakim, al-Baihaqi, ibn Hibbaan and others declared this hadith *sahih*.[2]

These hadith and others indicate that it is allowed to have amusement, such as reciting poetry that does not contain obscenity, lewdness or mention of forbidden acts. The permissibility of such is agreed upon among scholars. All of the poetic recitals that are narrated from the Companions and Followers, such as Hasaan ibn Thaabit, al-Baraa ibn Maalik, Saad ibn Abu Waqqaas and others, were of that nature.[3]

(2) The second type of recital is that which is done in a melodious, musical and very moving fashion by male or female singers who practice that art and make songs out of erotic poetry that makes an evil effect on the heart. This is what we witness in many weddings and

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[1] *Al-Mustadrak*, vol. 2, p. 185, the Book of Marriage; al-Baihaqi in *Sunan*, vol. 7, p. 289. [Al-Haithami stated that the narrators of this hadith are of *sahih* quality. Al-Albaani quoted others who described the hadith as *hasan* but he himself did not actually state his view concerning the hadith. See Muhammad Shakoor Amreer, *Al-Raudh al-Daani ila al-Mujam al-Sagheer li-l-Tabaraani* (Beirut: al-Maktab al-Islaami, 1985), vol. 1, p. 215; Muhammad Naasir al-Deen al-Albaani, *Adaab al-Zafaaf fi al-Sunnah al-Mutahharah* (Amman, Jordan: al-Maktabah al-Islaamiyyah, 1409 A.H.), p. 182.—JZ]

[2] See *Sunan al-Tirmidhi* (#1088), the Book of Marriage, Chapter on what has been narrated about announcing the marriage. Al-Nasaai has virtually the same (vol. 6, pp. 127, 128), the Book of Marriage, Chapter on publicizing the marriage by singing and beating the *duff*; ibn Maajah (#1897). It is an authentic hadith.

[3] *Al-Aqd al-Fareed* by ibn Abd Rabbih, vol. 6, p. 9; *Munkiraat al-Afraah*, p. 35.

other parties today. Usually, in those parties one also finds the men and women mixing together, clearly calling to obscenity, displaying one's beauty and lewdness. No one except the one who has no class or character would take part in such things. There is no doubt that this type of poetry is forbidden. The majority of people of knowledge of the earlier and later years are agreed that this type is forbidden.

Those who argue that this type of poetry is permissible based on the previously mentioned hadith are trying to use something which is true to prove something that is purely false. It is the use of the same evidence in matters that are greatly different. They are not equal or equivalent at all.

Permissible amusement at a wedding party is when the poetry is thought-provoking, strengthens one's drive to do what is right, directs the person to what is beneficial or contains beneficial wisdom that harms neither women nor men.

As for the poetry that is accompanied by musical instruments, that mentions the attributes of women or erotic songs that spread evil and lewdness among the young men and young women and destroys the values and changes their ways, there is no doubt that such are forbidden according to the agreement of the Companions, Followers and the four Imams, Abu Hanifah, Malik, al-Shafi'ee and Ahmad, may Allah be pleased with them.[1]

One of the means of publicizing the wedding is by beating the *duff* [handdrum]. The *duff* is a musical instrument that is played. It is also called *al-kirbaal*. It does not have any bangles or rings [such as those found on a tambourine], which are copper rings that are placed on the edges of the *duff*. If it contains such bangles or rings, it is called *mizhar*.[2]

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[1] See *Tahreem al-Nard wa al-Shatranaj wa al-Mulaahi* by al-Haafidh al-Ajuri, pp. 81-82; *Talbees Iblees* by ibn al-Jauzi, p. 229; *al-Umm*, vol. 6, p. 214. For more information, one may consult our book *Al-Rams al-Waqs li-Mustahili al-Raqs* (first edition 1410 A.H.; Riyadh: al-Daar al-Aalimiyyah li-l-Kitaab).

[2] *Al-Majmoo Sharh al-Muhadhab*, vol. 15, p. 557; *Haashiyah ibn Qaasim ala al-Raudh al-Muraba bi-Sharh Zaad al-Mustaqna*, vol. 5, pp. 418-419; *Fath al-Baari*, vol. 2, pp. 440-441.

There is no harm in beating the *duff* at the time of a wedding, in order to display happiness and spread good cheer, as long as certain conditions are met and certain prohibiting factors are absent.

As for the conditions, it must be the case that the *duff* is beaten lightly, without causing any disturbance, and that it be among the women only and not the men. Shaikh al-Islam ibn Taimiyah stated, "Since beating the *duff* and clapping the hands is something done by women, the early scholars called those male singers who did such things effeminate. That is well known in their speech."[1]

Included among the conditions is that the playing must be for the sake of announcing and publicizing the marriage. Furthermore, the *duff* must be free of bangles. All other instruments, such as pipes, flutes, mandolin, zither, fiddle, trumpet or any modern-day musical instrument, are forbidden. Playing or listening to them is forbidden according to the majority of the scholars.[2]

Absence of prohibiting factors means that there can be no aspects leading to evil and that the men and women cannot be mixing with one another. Concerning what one sees today, wherein the *duff* is played a lot and played over the microphone with singing and the night is spent in obscene songs accompanied with music that stir the desires, such things are not permissible under any circumstances. Many evils are the result of them and what they lead to is not praiseworthy.

Ibn Rajab stated,

> Their *duffs* were like *gharaabeel*[3] and the poetry they recited was the poetry from wartime of the Days of Ignorance and similar poetry. Whoever makes an analogy between that and listening to erotic poetry accompanied by *duffs* with bangles is extremely mistaken. He has made

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1 *Majmooah al-Rasaail al-Munairiyyah*, vol. 2, p. 171 (Idaarah al-Tibaah al-Munairiyyah, Cairo, first edition 1346 A.H.).

2 *Ighaathah al-Luhfaan lk Masaayid al-Shaitaan* by ibn Qayyim al-Jauziyyah (vol. 1, p. 228), edited by Muhammad Haamid al-Faqee, Maktabah al-Sunnah al-Muhammadiyyah.

3 *Gharaabeel* is the plural of *ghirbaal*. It is the thing that is used for sifting, as stated in *al-Qaamoos al-Muheet*.

an analogy between two things although the parallel case and original case are extremely different.[1]

Al-Izz ibn Abdul Salaam also stated,

> As for the flute and other well-known string instruments, such as a rebec (Renaissance fiddle) or zither, what is well-known among the four schools of fiqh is that playing or listening to them is forbidden.[2]

Ibn Qudaamah stated,

> As for playing it, that is, the *duff*, it is disliked for men under all circumstances. Only the women used to play it. When men play it, they resemble women. And the Messenger of Allah (peace be upon him) has cursed those men who imitate and resemble women.[3]

Ibn Hajr stated,

> The basic ruling is that one should avoid play and amusement; [play and amusement] should be restricted with respect to their time and manner to those areas concerning which there is a text and kept to a minimum in order not to contradict the basic ruling.[4]

Dancing is one of the evil habits and innovations that have appeared in such parties during our days. [Hence, it will be discussed in detail next.]

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[1] *Nuzhat al-Asmaa fi Masalah al-Simaa*, p. 42 (al-Aasimah publishers).
[2] *Talbees Iblees*, p. 229.
[3] *Al-Mughni*, vol. 9, p. 174 (published and distributed by al-Riaasah al-Aamah li-Idaaraat al-Bahooth al-Ilmiyyah wa al-Ifta, Riyadh, Saudi Arabia).
[4] *Fath al-Baari*, vol. 2, p. 443.

Dancing

Definition

"[Dancing] is the movement and shifting of the body according to a musical rhythm or otherwise."[1]

Its Ruling

Dancing is one of the greatest forms of error and going astray by which many of the dreams and desires of the enemies of Islam are fulfilled among the Muslims. Many of the young people have been tempted and have succumbed to this trial. They have now taken it as a regular practice at all parties and gatherings— although it is very rare in our country [of Saudi Arabia] and all praise be to Allah.

Al-Izz ibn Abdul Salaam stated, "Dancing is not done except by one who is deficient in his intellect, an ignoramus and it is not befitting anyone except women."[2] The youth of Islam and tomorrow's men must keep themselves free of such wantonness and evil, and not imitate women.

The Ceremony of Presenting the Bride and Groom

Among the evil practices and lewd customs that have crept into our society— concerning which every zealous person should fight and try to bring an end to— is what is known as *al-tashreeah* or the presenting of the bride and the groom. There is where the bride wears a long white wedding dress [like those found in the West] that she cannot even walk in without having some women carry the tail of it. She also

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1 *Taaj al-Lughbah wa Sihaab al-Arabiyyah* by al-Jauhari, vol. 3, p. 1041.
2 *Qawaaid al-Ahkaam ti Masaalih al-Anaam*, vol. 2, pp. 220-221 (edited by Abdul Raoof Saad).

wears a white headcovering with white gloves. Then she is placed in an open place in front of all the people. Then her husband comes to her, greets her, presents to her a present and they talk, all while in front of all the people.

This practice has no source in the Quran or sunnah. Neither the Prophet (peace be upon him) nor the Companions or early scholars of this nation ever did anyhing of this nature. If it were something good, they would have done it. In fact, this practice has many greatly evil aspects to it, including:

The groom enters upon a number of women and they are not wearing the proper Islamic attire (*hijaab*). He or they may be tempted to evil by that. Furthermore, many men watch that event and this leads to some ends that are not praiseworthy. The women also watch some of the private interaction between the bride and groom and that is also forbidden. Their speech or actions may be something that should be private and spreading such private matters of spouses is not allowed.

Also, both spouses or one of them may be afflicted by the evil eye. Such has occurred on many occasions, such that the end of the marriage was the result because the people did such a dangerous act in disobedience to Allah while they should be very eager to gain Allah's pleasure and guidance under such circumstances.

In addition to that, many people customarily use cameras and video cameras to record such events in order to watch them again later. This is very unfortunate and an imminent evil. During such occasions, the women are dressed in their most attractive attire with all their make-up and jewelry. To take pictures of them during such a time is a great temptation; it can reap evil and lewdness among the people. There is no doubt that any kind of picture-taking during such times is forbidden. Furthermore, some women are unaware that they are having their picture taken and this can cause them or their husbands great harm and embarrassment later as they are captured in those pictures or films in all of their adornments. Such occurrences have actually led to some women being divorced when their husbands see them later in such videos and openly doing acts of disobedience to Allah.

Those who are in charge of the places that are rented for such gatherings and those whom Allah has placed in positions of authority

over the Muslims must stamp out this evil phenomenon and put an end to these actions that have entered upon our customs and our culture.

Chapter Three
The Wedding Dinner (*al-Waleemah*) and an Admonition Concerning Extravagance at Wedding Parties

The Root of the Word *Waleemah*, Its Linguistic and Technical Definition

The root of the word *al-waleemah*[1] (الوليمة) is, "Completing something and gathering it together."[2] Ibn al-Araabi said,

> It is said that a man has *awalam* when his intelligence and character have come together. The one who is shackled is called *walm* because one of his legs is tied to the other. Then the word *waleemah* became specifically known as

[1] The meals that people are invited to are of ten varieties: (1) the wedding feast; (2) the feast at the time of circumcision; (3) the feast after giving birth; (4) the feast after completing one's house; (5) the feast at the time that one who was absent comes or returns; (6) the slaughtering due to the birth of a child (*al-aqeeqah*); (7) the meal when the child becomes proficient and memorizes the entire Quran; (8) general feasts that may be given with or without any specific purpose; (9) the feast that is offered by the people who have suffered a death or catastrophe— this type is neither sanctioned nor recommended; (10) feast for the arriving person. See *Haashiyataa Qalyoobi wa Umairah ala Minhaaj al-Taalibeen*, vol. 3, p. 294; *al-Matli ala Abwaab al-Muqni*, p. 328; *al-Insaaf*, vol. 8, p. 316; *Fath al-Baari*, vol. 9, p. 241. [Here the author has simply listed the different types of meals that person are normally invited to. Some of his sources, such as *al-Insaaf* include others that he did not mention. It is important to note that not all of the above are necessarily sanctioned or recommended in Islamic law.—JZ]

[2] Ibid.

the wedding feast and was not used for anything else. Its plural is *walaaim* (ولائم).[1]

The *shareeah* definition of *waleemah* is, "The food that is specifically for the occasion of a wedding." Some of the jurists give it the following definition, "Every meal given for a happy event." However, its usage for the wedding feast is more common. This latter definition contradicts what the scholars of the language and fiqh have stated.[2]

Al-urs (العُرس) refers to the meal and the wedding.

Al-irs (العِرس) refers to the man's wife or the woman's husband.

Al-uroos (العروس) refers to either a man or woman during the days in which the marriage is consummated and the two are brought together.[3]

The Ruling Concerning the *Waleemah*

The wedding feast (*waleemah*) is a strongly recommended sunnah according to the majority of the scholars.[4] This is the well-known opinion among the Malikis[5] and Hanbalis. This is also the opinion of some of the Shafi'ees. Since it is a feast due to a happy occurrence, it is not obligatory, as other feasts are also not obligatory.

There is a statement from Malik, a clear text in *al-Umm* by al-Shafi'ee and the opinion of the Dhahiris that the wedding feast is obligatory.[6] This opinion is based on the statement of the Prophet (peace be upon him) to Abdul Rahmaan ibn Auf,

أَوْلِمْ وَلَوْ بِشَاةٍ

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[1] *Al-Matli*, p. 328; *al-Qaamoos al-Fiqhi Lughah wa Istilaahaan*, p. 387.
[2] *Al-Qaamoos al-Fiqhi*, p. 387; *al-Matli*, p. 328.
[3] *Sharh Saheeh Muslim* by al-Nawawi, vol. 9, p. 234; *al-Qaamoos al-Muheet*, under *uroos*.
[4] *Nail al-Autaar* by al-Shaukaani, vol. 6, p. 1970.
[5] *Al-Mughni*, vol. 10, pp. 192-193.
[6] Qalyoobi and Umairah, vol. 3, p. 295; *al-Muhalla* by ibn Hazm al-Dhaahiri, vol. 11, p. 22.

"Make the wedding feast even if it is with just a sheep."[1] The apparent meaning of this command is that of obligation.

A narration by Abu al-Shaikh and al-Tabaraani in *al-Ausat* from the hadith of Abu Huraira from the Prophet (peace be upon him) states,

الوليمة حق وسنة فمن دعي إليها فلم يجب فقد عصى

"The wedding feast is a right act (*haqq*)[2] and sunnah. One who is invited to it but does not attend has disobeyed [Allah and His Messenger]."[3]

Ibn Battaal stated,

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[1] Discussed earlier.

[2] [The word in Arabic is *haqq*. This could imply "an obligatory act." It could also imply "a right act," which is the interpretation the author favors above. However, since this narration and the other narrations that state that the *waleemah* is a *haqq* are weak, the argument is actually moot. The only aspect they need to prove is that the command in the previous hadith, "Have a *waleemah* even if with just a sheep," is a command implying recommendation and not obligation. There is yet another *hasan* hadith that implies obligation which the author did not mention here. It states, "A wedding must have a feast." For more details on this point and the status of the *waleemah* see Jamaal al-Din M. Zarabozo, *The Fiqh of the Family, Marriage and Divorce* (Falls Church, VA: American Open University, 1997), pp. 146-150.—JZ]

[3] [Al-Haithami stated that this hadith is recorded by al-Tabaraani through Yahya ibn Uthmaan al-Taimi. He says that Yahya was considered trustworthy by Abu Haatim al-Raazi and ibn Hibbaan while al-Bukhari and others considered him weak. He then states that the rest of the narrators are of *sahih* quality. A closer inspection of Yahya shows that he was considered very weak by almost all scholars. In fact, ibn Hibbaan himself included him in his collection of rejected narrators and stated, "His hadith are very rejected. He narrated objectionable reports that are not corroborated by anyone. It is not allowed to argue by his hadith." It is therefore clear that this narration from al-Tabaraani is weak or very weak. There are other hadith that mention at the beginning, "The *waleemah* is *haqq*," but they are also weak. Hence, there is no need to try to reinterpret the wording of this hadith to try to prove that the *waleemah* is not obligatory, as the author has done in the text above. Allah knows best. Cf., Abdullah al-Darweesh, *Bughyat al-Zaaid fi Tahqeeq Majma al-Zawaaid wa Manba al-Fawaaid lil-Haafidh al-Haithami* (Beirut: Daar al-Fikr, 1992), vol. 4, p. 80; Ahmad ibn Hajr, *Tahdheeb al-Tahdheeb* (Beirut: Muassasah al-Risaalah, 1996), vol. 4, p. 378; Muhammad ibn Hibbaan, *Kitaab al-Majrooheen min al-Muhadditheen wa al-Dhuafaa wa al-Matrookeen* (Beirut: Daar al-Marifah, 1992), part 3, pp. 122-123; Muhammad Naasir al-Deen al-Albaani, *Irwaa al-Ghaleel fi Takhreej Ahadeeth Manaar al-Sabeel* (Beirut: al-Maktab al-Islaami, 1979), vol. 7, pp. 8-11.—JZ]

> His word, *haqq* (a right act), means, "not invalid but something recommended." And it is a *sunnah*, meaning a virtuous act. The meaning of *haqq* here is not that it is obligatory. It is interpreted to mean preferred since he ordered the person to have the dinner with a slaughtered sheep while all agree that such is not obligatory.[1]

Hence, the weightier view is that it is a stressed sunnah and a preferred act but it is not obligatory.

Al-Muwaafiq ibn Qudaamah stated in *al-Mughni*, "There is no difference of opinion that it is not obligatory. What they mentioned [the Shafi'ees who say it is obligatory] has no basis. So the report [above] is interpreted to imply recommendation."[2]

The Timing of the *Waleemah*

The early scholars differed over the timing of the *waleemah*: Is it at the time of the marriage contract, right after the contract is concluded, when the marriage is consummated, right after the marriage is consummated or is it from the time of contract until after consummation?

Al-Nawawi stated,

> [The scholars have] differed. Al-Qaadhi Iyaadh stated that the strongest opinion among the Malikis is that it is preferred after the consummation while a group of them says it should be at the time of the contract. Ibn Jundub mentions both the time of the contract and after consummation.[3]

Al-Subki, a Shafi'ee, stated,

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1 *Nail al-Autaar* by al-Shaukaani, vol. 6, p. 198.
2 *Al-Mughni*, vol. 10, p. 193. [The text in Arabic was not clear. The above translation is based on what ibn Qudaamah wrote in *al-Mughni* itself.—JZ]
3 *Nail al-Autaar*, vol. 6, pp. 198-199.

> What is narrated from the actions of the Prophet (peace be upon him) is that it is after consummation. In the hadith of Anas, recorded by al-Bukhari and others, it is clearly stated that it was after consummation, as it says, "He became a newlywed with Zainab and he invited the people..." This is what the Malikis base their view on. The Hanbalis say that the sunnah is for it to be at the time of the marriage contract. The custom has become that it is done just prior to the consummation.

In *al-Insaaf* it states, "The preferred opinion is to say that the preferred time stretches from anytime from the time of the contract to the last days of being a newlywed, as there are authentic reports on that matter. Furthermore, the complete happiness comes after the consummation."[1]

That is the correct opinion. Allah knows best.

The Amount of the *Waleemah* and What It Consists Of

Based on what the Prophet (peace be upon him) said to Abdul Rahman ibn Auf, "Give a wedding feast even if it just be a sheep,"[2] the scholars say that it is preferred for one who has the means to offer a feast of no less than a sheep. However, it is confirmed that the Prophet (peace be upon him) himself had a wedding feast for one of his wives with something less than a sheep.

Al-Bukhari recorded from Safiyyah bint Shaibah who said, "The Prophet (peace be upon him) gave a wedding feast for one of his wives with just two *mudds*[3] of barley."[4] Al-Bukhari also recorded that the Prophet (peace be upon him) freed Safiyyah and married her, with her dowry being her freedom. He gave a wedding feast for her consisting

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[1] *Al-Insaaf fi Marifah al-Raajih min al-Khilaaf* by al-Mardaawi, vol. 8, p. 317.

[2] This [authentic] hadith was discussed earlier.

[3] [A *mudd* is an amount; it is equivalent to what a man with normal sized hands can scoop up with his two hands cupped together.]

[4] *Al-Saheeh* (#5173), the Book of Marriage, Chapter on having a wedding feast with less than a sheep.

of *hais*.[1] *Hais* is a meal made up of dates mixed with dry yogurt, flour or butter. That is how it is defined in *Fath al-Baari*.[2]

Al-Qaadhi Iyaadh stated,

> The [scholars] agree that there is no upper limit to what may be given as a wedding feast.[3] The same is true for its minimum amount. Whatever is easy upon the person will suffice. The preferred feast is what in accordance with the ability of the husband.[4]

As for its length, it is two days long. The early scholars differed over having it for more than two days. Some disliked it while others allowed it.[5]

The issue differs depending on the person and the customs of the people.[6]

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[1] *Al-Saheeh* (#5169), the Book of Marriage, Chapter on having a wedding feast even if with just one sheep.

[2] Vol. 9, p. 237 (al-Salafiyyah edition).

[3] [As the author will explain later, in all things, extravagance is forbidden, as is clear in numerous places in the Quran. Allah says, "And those who, when they spend, are neither extravagant nor niggardly, but hold a medium between those [extremes]" (*al-Furqaan* 67). "O children of Adam! Take your adornment while praying and eat and drink but waste not by extravagance, certainly He likes not those who waste by extravagance" (*al-Araaf* 31). For more on the question of extravagance and the wedding feast, see Abdullah al-Tiraiqi, *Al-Israaf: Diraasah Fiqhiyyah Muqaarinah bain al-Madhaahib al-Arbaah* (Riyadh: published by its author, 1992), pp. 217-224. One of the aspects that al-Tiraiqi mentions in particular is the preparing of more food than is expected to be eaten. This leads that food to be thrown away and this is a great misuse of this blessing from Allah. The person, he states, will be asked about that bounty on the Day of Judgment, as Allah says, "Then on that Day you shall be asked about the bounties [you were privileged with in this world]" (*al-Takaathur* 8).—JZ]

[4] *Fath al-Baari bi-Sharh Saheeh al-Bukhaari*, vol. 9, p. 235; *Nail al-Autaar*, vol. 6, p. 199.

[5] [It seems that the strongest opinion is that three days is both permissible and also part of the sunnah. This is based on a *hasan* hadith in *Musnad Abu Yala* which states, تزوج النبي صفية وجعل عتقها صداقها وجعل الوليمة ثلاثة أيـام "The Prophet (peace be upon him) married Safiyah and made her freedom her *mahr* and made the *waleemah* three days long." Allah knows best.—JZ]

[6] *Sharh Saheeh Muslim*, vol. 9, p. 234.

The Invitation to Attend the *Waleemah*

It is the practice in Islam for the husband to feed, his family, companions and neighbors during the *waleemah*. He should also set aside a portion for the poor and indigent as a way of expressing thanks to Allah and recognizing Allah's bounty upon him.

The husband must also do his best to invite the pious and good people. He also should not distinguish between the rich and poor. The Prophet (peace be upon him) has prohibited such a practice. Abu Hurairah stated, "The worst food is the food of the wedding feast in which only the rich are invited and the poor are avoided. And whoever does not respond to the invitation has disobeyed Allah and His Messenger."[1] Although this is a statement of a Companion, in its ruling it is treated as having its source with the Prophet (peace be upon him).

Al-Nawawi stated in *Sharh Saheeh Muslim*, "This is stating what the people did after him [the Prophet (peace be upon him)] of tending to the rich in their dinners and other events. They would invite them in particular and give them preference in having the best food and the best places to sit and so forth, as is the case in most dinners. And Allah alone is the one who can be resorted to for help."[2]

On this point, ibn Masood said, "If only the rich are invited and the poor are left out, we have been ordered not to respond to such an invitation." Ibn Bataal said, "If the host distinguishes between the rich and poor and feeds each one separately, there is no harm in that. Ibn Umar did such."[3]

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1 Recorded by al-Bukhari (#5177), the Book of Marriage, Chapter on the one who does not answer the invitation has disobeyed Allah and His Messenger; Muslim (#1432), the Book of Marriage, Chapter on the order to respond to the invitation when one is invited. The wording above is from al-Bukhari.

2 *Sharh Saheeh Muslim*, vol. 9, p. 237.

3 *Fath al-Baari*, vol. 9, p. 245.

The Ruling Concerning Answering the Invitation for the One Who is Not Fasting

Scholars are agreed that it is sanctioned to answer the invitation to a *waleemah*. Some say that it is an individual obligation upon the person who was invited— however, that obligation may be dropped if the invited person has an acceptable excuse, and such excuses shall be discussed shortly, Allah willing. Ibn Taimiyah concluded that the stronger opinion is that it is only recommended. Furthermore, the ruling for a woman is the same on this point as for a man, unless it involves being in private seclusion with men, which is forbidden.

The scholars differ concerning invitations other than that of the wedding feast. Malik and the majority of the scholars say that it is recommended to respond to any other invitation. The Dhahiris (Literalists) say that it is obligatory to respond to every invitation, whether it be a wedding feast or otherwise. That was also the opinion of some of the early scholars.[1]

The evidence stressing the importance of responding to the wedding feast invitation is in the statement of the Prophet (peace be upon him),

إِذَا دُعِيَ أَحَدُكُمْ إِلَى الْوَلِيمَةِ فَلْيَأْتِهَا

"If one of you is invited to the wedding feast, he should go to it."[2] And also his statement (peace be upon him) discussed earlier, "The worst food... And whoever does not respond has disobeyed Allah and His Messenger."[3] There are also other hadith that stress the obligation of responding to the invitation on the first day. The invitation for the

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1 See *Maraatib al-Ijmaa*, p. 25; *Mausooah al-Ijmaa*, vol. 2, p. 1152; *al-Muhalla* by ibn Hazm al-Dhaahiri, vol. 11, pp. 22-23, issue number 1824; *Fatawa Shaikh al-Islaam ibn Taimiyah*, vol. 32, p. 206.

2 Recorded by al-Bukhari (#5173), the Book of Marriage, Chapter on the right of responding to the wedding feast and invitation.

3 [As was presented earlier, this was not a statement of the Prophet (peace be upon him), as the text states here, but a statement of Abu Hurairah, albeit it is considered as having its source with the Prophet (peace be upon him).—JZ]

second day is considered preferred. Responding to the invitation for the third day of the wedding feast is considered disliked, as shall be explained later.[1]

Shaikh al-Islam stated, "It is forbidden to eat and slaughter meat for what is beyond the norm during the remaining days, even if the custom is to do so or if it is done to make the family happy. If they continue to do so, they should be reprimanded."[2]

Al-Haafidh [ibn Hajr] researched the question of having more than three days for the *waleemah* and he presented statements from people of knowledge. In sum, what he concluded is that it is disliked to have the *waleemah* for more than three days unless there is no fear of any commotion in that it is clear that the host is not doing it to show off or compete against others. In other words, he is just prolonging it due to the large number of people that he needs to invite or something of that nature.[3]

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[1] A hadith on that matter has been recorded by al-Tirmidhi (#1097), the Book of Marriage, Chapter on what has been narrated concerning the *waleemah*. Its text is, "The food of the *waleemah* on the first day is a right act, on the second day it is a sunnah and on the third day it is showing off. Whoever does acts for show, Allah will make it be known [that he did it for show]." Al-Tirmidhi found fault with one of its narrators who had heard from his source after his source became senile. However, that hadith has other evidence for it that shows that it has a basis. Ibn Hajr pointed that fact out in *al-Fath* (vol. 9, p. 243) and he mentioned that hadith just alluded to. [There is nothing in ibn Hajr's discussion that explicitly states that the above hadith is ***hasan***. Indeed, earlier in ibn Hajr's discussion he quoted the hadith mentioned in an earlier footnote from this translator in which the Prophet (peace be upon him) had a *waleemah* for three days. Ibn Hajr explicitly stated that the chain of that hadith is ***hasan***. Al-Albaani has discussed the hadith, "The food of the *waleemah* on the first day is a right act, on the second day it is a sunnah and on the third day it is showing off. Whoever does acts for show, Allah will make it be known [that he did it for show]" in detail and he concluded that it is weak, with none of its supporting evidence being strong enough to raise it to the level of ***hasan***. See al-Albaani, ***Irwaa***, vol. 7, pp. 8-11. Allah knows best.—JZ]

[2] *Haashiyah al-Raudh al-Muraba bi-Sharh Zaad al-Mustaqni*, vol. 6, pp. 408-409, fn. 5.

[3] See *al-Fath*, vol. 9, p. 243.

The Ruling Concerning Answering the Invitation for the One Who is Fasting

Fasting is not an excuse for not responding to the wedding feast invitation. If a person is invited while he is fasting, he must respond in the same way that one who is not fasting must respond. The purpose will be met by him simply appearing at the feast, even if he does not eat. The people offering the food and those present will benefit from his supplications or he is protected from what he would not be protected from in his absence.

It is obligatory on the fasting person to respond to the invitation but it is not obligatory upon him to eat. "It is confirmed that Abdullah ibn Umar used to respond to the invitation of a wedding feast or other feasts and he would come while he was fasting."[1]

The fasting person will be in one of two cases:[2]

The first case is where he is fasting an obligatory fast, such as a fast that is the result of a vow or the fast of Ramadhan. If he is invited under this case, he must attend but he does not eat. This is because it is forbidden for him to break his obligatory fast for Allah has said,

وَلَا تُبْطِلُوا أَعْمَالَكُمْ

"Do not invalidate your deeds" (*Muhammad* 33). It is preferred for the fasting person to inform [the host] so that they will know his excuse [for not eating].

In the second possible case, the person is performing a voluntary fast. In this case, he must respond to the invitation and it is permissible for him to break his fast or not to eat. However, if by not eating he will dishearten his host, it is best for him to break his fast and put his brother's heart at ease and make him happy by his breaking his fast.[3] If that is not the case, it is better to complete the fast than to break it.

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[1] *Al-Muhalla Sharh al-Mujalla*, vol. 11, p. 22, issue #1824; *Fath al-Baari*, vol. 9, p. 246.
[2] *Al-Mughni*, vol. 10, p. 196, issue #1219.
[3] *Al-Mughni*, vol. 10, p. 197.

The Messenger of Allah (peace be upon him) saw a person separating himself from the people and he explained that he was fasting. The Prophet (peace be upon him) told him,

دعاكم أخوكم وتكلف لكم كُلْ ثم صم يوماً مكانه إن شئت

"You brother has invited you and exerted efforts on your behalf. Eat and then fast another day in its place, if you wish."[1]

The one who was fasting an obligatory fast must attend and it is recommended for him to pray for the people and then leave. This is based on what Abu Hurairah narrated from the Messenger of Allah (peace be upon him),

إِذَا دُعِيَ أَحَدُكُمْ فَلْيُجِبْ فَإِنْ كَانَ صَائِمًا فَلْيُصَلِّ وَإِنْ كَانَ مُفْطِرًا فَلْيَطْعَمْ

"If one of you is invited, he must respond. If he were fasting, he should pray [or invoke blessings on the people] and if he were not fasting, he should eat."[2]

Al-Nawawi said, "Scholars have stated that the meaning of 'he should pray,' means 'he should supplicate.' And the meaning of the last word is 'he should eat.'"[3] In fact, in the narration of Abu Dawood it states, "he should supplicate."[4]

It is not obligatory upon the person attending to actually eat, even if he were not fasting. The thing that he must do is attend; that is

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[1] *Al-Sunan al-Kubra* by al-Baihaqi, vol. 4, p. 279. It was also recorded by ibn Maajah. However, in its chain is a weak narrator but he is supported in this narration. Such has been stated by ibn Hajr in *al-Fath*, vol. 9, p. 248. [Al-Albaani also concludes that this hadith is *hasan*. See al-Albaani, *Irwaa*, vol. 7, pp. 11-14.—JZ]

[2] Recorded by Muslim (#1431), the Book of Marriage, Chapter on the order to respond to the invitation when one is invited.

[3] *Riyaadh al-Saaliheen*, p. 264, hadith #738. See also *Sharh Saheeh Muslim*.

[4] *Sunan Abi Dawood* (#3736), Book of Food, Chapter on what has been narrated concerning responding to invitations.

the act that there is a warning concerning not doing. However, he does not have to eat. The Prophet (peace be upon him) said,

مَنْ دُعِيَ فَلْيُجِبْ فَإِنْ شَاءَ طَعِمَ وَإِنْ شَاءَ تَرَكَ

"Whoever is invited should respond to the invitation. If he wishes, he may eat; and if he wishes, he may abstain [from eating]."[1]

Ibn Taimiya stated,

> It is not necessary for the host to insist on feeding the guest if he refuses to break his voluntary fast or if he refuses to eat even if he is not fasting. Both of those matters [fasting or not eating] are permissible [for the guest]. The host should not make a vow that his guest must eat. Similarly, the guest should not insist on not eating if he sees that such will result in some harm, for it is permissible for him to break his fast. If his not doing something permissible will lead to something that should be avoided, he should then do that permissible thing. In fact, [under such circumstances,] it may even become obligatory upon him [to do that otherwise simply permissible act].[2]

[1] *Sunan Abi Dawood* (#3740), Book of Foods, Chapter on what has been narrated concerning responding to invitations. [According to al-Albaani, this hadith is *sahih*. See Muhammad Naasir al-Deen al-Albaani, *Saheeh Sunan Abi Dawood* (Riyadh: Maktabah Tarbiyyah al-Arabi li-Duwal al-Khaleej, 1989), vol. 2, p. 713.—JZ]

[2] *Al-Ikhtiyaaraat al-Fiqhiyyah min Fataawa Shaikh al-Islaam ibn Taimiyah*, p. 241.

The Acceptable Excuses for Not Attending the Wedding Feast[1]

It has been stated that it is obligatory to attend the wedding feast. However, if one has a valid excuse or if there is some evil that the person will not be able to put an end to, this obligation is dropped due to that reason. Other excuses include the following:

(1) The invited person is invited to a place in which there is a great deal of evil and wrong, such as alcohol, mixing of the sexes, music and so forth. Only if he has the ability to stop such evil should he then attend.

(2) If the invited person has a *shareeah* excuse for not attending, such as what excuses a person from attending the prayer in congregation in the mosque (rain, fear, illness), then it is not obligatory upon him to attend.

(3) If the invited person will be harmed with respect to his religion, such as when backbiting is taking place in such a gathering, he is excused from attending.

(4) If the invitation is for which only the rich are invited, to the exclusion of the poor, it should not be responded to.

(5) If the person is invited to the third day of the wedding feast, he should not attend for such is considered a day of showing off and acting for reputation.[2]

(6) If the inviting person is not careful about permissible or forbidden foods or delves into doubtful matters, the invited person is excused from attending.

(7) If the inviting person is from the non-Muslim citizens of the Islamic state, it is disliked to respond to the invitation. This is because a goal is to belittle the non-Muslim citizens, to remain away from doubtful matters or what contains something forbidden. But if there is some

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[1] Cf., *Al-Mughni*, vol. 10, pp. 194-107; *Sharh Saheeh Muslim*, vol. 9, p. 234; *Haashiyah al-Raudh al-Muraba bi-Sharh Zaad al-Mustaqni*, vol. 6, pp. 408-416; *Sharh al-Sunnah* by al-Baghawi, vol. 9, pp. 147-149; *Al-Fiqh al-Islaami wa Adillatuhu* by Wahbah al-Zuhaili, vol. 7, p. 127; *Fath al-Baari*, vol. 9, pp. 247-248.

[2] [The permissibility of a third day for the *waleemah* was discussed in an earlier footnote.—JZ]

benefit with respect to calling that non-Muslim to Islam, then he may attend.

(8) If the person is invited to a funeral feast, it is disliked to attend. Similarly, if he is invited to a feast [where the host] is boasting about his invitation, he should not attend.

(9) According to ibn Taimiyah, a person should not greet or accept the invitation of a person who does not pray.

(10) If a person is invited by a spendthrift who will have musical instruments or complete statues, casting shadows not just etched in the walls or furnishings, one should not attend. This is because pictures or statues of animals are forbidden by consensus if they cast a shadow, as opposed to partial figures which are missing a part of the animal that would be needed for it to live and as opposed to sketches that do not cast a shadow which are found in paper or walls. Looking at something forbidden is forbidden in itself. However, pictures of other than animals, such as the ocean or trees, are not forbidden.

(11) Another excuse that makes it not obligatory to attend the wedding feast is if the place is too crowded or if the person comes but finds the doors locked preventing his entrance. Allah knows best.

Here are some of the texts [of hadith] related to the above aspects:

Abu Dawood recorded in his *Sunan* from ibn Umar who said, "The Messenger of Allah (peace be upon him) forbade sitting at the place where food is served which has alcohol with it and for a person to eat while he is lying on his stomach."[1]

Abu Dawood recorded through his chain of transmitters in his *Sunan* that the Prophet (peace be upon him) said,

الْوَلِيمَةُ أَوَّلَ يَوْمٍ حَقٌّ وَالثَّانِيَ مَعْرُوفٌ وَالْيَوْمَ الثَّالِثَ سُمْعَةٌ وَرِيَاءٌ

[1] *Sunan Abi Dawood* (#3774), The Book of Foods, Chapter on sitting at a tablespread that has some items which are disliked. [The hadith with the above wording recorded by Abu Dawood has some problems with its chain of narrators. However, the meaning of the hadith is acceptable as both acts mentioned have been prohibited or disapproved of in other acceptable hadith. See al-Albaani's discussion of the hadith in al-Albaani, *Irwaa*, vol. 7, pp. 40-41. In *Saheeh al-Jaami al-Sagheer*, vol. 2, p. 1159, al-Albaani stated that the above hadith is *hasan*.—JZ]

"The food of the *waleemah* on the first day is a right act, on the second day it is a well-known accepted act and on the third day it is done for reputation and showing off."[1] Qataada said: A man narrated to me that Saeed ibn al-Musayyab was invited on the first day and he responded. He was invited on the second day and he again responded. He was invited on the third day and he did not respond, saying, "[They are] people of showing off and acting for reputation."[2]

In the *Sunan* [of Abu Dawood] it is recorded from that the Prophet (peace be upon him) forbade eating the food of those who are simply competing against others.[3]

Al-Khattaabi stated, "Those who are competing are those who are going against each other to see who can outdo the other. A scholar was once invited but he did not attend and it was said to him, 'The people of the early generations would attend when they were invited.' He responded, 'They used to be invited based on brotherhood and friendship. You people invite out of boasting and outdoing each other.'"[4]

Al-Bukhari recorded in his *Sahih* from Aisha, the mother of the believers, may Allah be pleased with her, that she purchased a cushion that had pictures on it. When the Prophet (peace be upon him) saw it, he stood at the door and did not enter [the room]. [Aisha said,] "I saw his displeasure on his face." She said, "O Messenger of Allah (peace be upon him), I repent to Allah and to the Messenger of Allah. What sin did I commit?" The Messenger of Allah (peace be upon him) said, "What is with this cushion?" She said, "I bought it for you to sit on it and lay your head on it as a pillow." He replied, "The companions of these pictures [that is, those who made them] will be punished on the Day of Resurrection. It will be said to them, 'Give life to what you have

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[1] [This is the same hadith as that recorded by al-Tirmidhi and mentioned by the author in an earlier footnote. As noted in that footnote, it is a weak hadith.—JZ]

[2] *Sunan Abi Dawood* (#3745), the Book of Foods, Chapter on how long it is preferred to have the wedding feast. See the earlier discussion under, "The ruling of responding to the invitation for one who is not fasting."

[3] *Sunan Abi Dawood* (#3754), Book of Foods, Chapter on the food of those who are competing. [According to al-Albaani, this hadith is *sahih*. See al-Albaani, *Saheeh Sunan Abi Dawood*, vol. 2, p. 715.—JZ]

[4] *Maalim al-Sunan* by al-Khattaabi, vol. 4, p. 132 (on the margin of *Sunan Abi Dawood*).

created.'" Then he said, "The angels do not enter a house in which there are pictures."[1]

Al-Baghawi stated in *Sharh al-Sunnah*, "This [hadith] indicates that if one is invited to a wedding feast that contains detestable aspects or musical instruments, he should not attend— unless he is from those people that if he attends, such things will be removed due to his attendance or due to his stopping them."[2]

If a person sees something engraved or a picture of trees and so forth, there is no harm in that as such engravings are like markings on clothing.[3] If the picture of the animal is in a place that is stepped on or reclined upon, such as in something spread out on the ground, like a carpet, or a cushion, it is permissible.[4] If it is on a curtain or wall, something that is not walked upon, and one can remove it or cut its head off, he should do so and then sit down. If he cannot do that, he should leave and not sit down. This is the view of the majority of scholars.

As for covering the walls with coverings that do not contain pictures, if such is done due to a need, like protection from heat or cold, there is no harm in it. In that case, it is being done due to a need and it is similar to having a curtain over a door or what a person wears on his body. If it is not needed, then it is disliked and it serves as an excuse for a person to return from an invitation and not attend that wedding feast. The evidence for that is in the narration from Saalim ibn Abdullah ibn Umar (may Allah be pleased with them both) who said: I was a newlywed during my father's lifetime. My father informed the people and among those people we informed was Abu Ayyoob [the

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1 *Saheeh al-Bukhari* (#5181), the Book of Marriage, Chapter on should one return if he sees something objectionable at the invitation.

2 *Sharh al-Sunnah*, vol. 9, p. 147.

3 [This is not the proper place to enter into a detailed discussion of this question, but the author here is following one interpretation of what is meant by "markings or engravings in clothing". According to ibn Hajr, the strongest interpretation is that an engravings on clothing that do not represent the complete animal or that could not be of a living creature are the only ones that are permissible. See Ahmad ibn Hajr, *Fath al-Baari bi-Sharh Saheeh al-Bukhari* (Makkah: Maktabah al-Tijaariyyah, 1993), vol. 11, pp. 591-592. Allah knows best.—JZ]

4 [Although this is the opinion of many scholars, it seems to clearly contradict the hadith the author just mentioned from Aishah, wherein the Prophet (peace be upon him) objected to the pictures on the cushion or pillow.—JZ]

Companion]. [The walls of] my house were covered with green carpets or sheets. I met Abu Ayyoob among the first and he looked and saw that the house had been covered with green material. He said, "O Abdullah, do you cover the walls?" My father, ashamed, said, "The women have overpowered us, O Abu Ayyoob." Abu Ayyoob then said, "There are some for whom I feared they would be overpowered by women but I did not fear that they would overpower you." Then he said, "I will not eat your food nor will I enter your house," and he left. Recorded by al-Baihaqi and others.[1]

In *Sharh al-Sunnah*, al-Baghawi wrote, "Similarly, if the host has most of his wealth from forbidden sources or he is one that you cannot be safe from being harmed, either with respect to your religion or worldly affairs, it is not obligatory upon you to respond."[2]

Warning Concerning Extravagance at Wedding Parties

Islam encompasses a number of teachings that are related to the lives of Muslims in particular. Their purpose is to organize the physical, economic and psychological affairs on noble bases. There are, for example, manners related to food, dress, housing and other goals that people seek after in this life. There is no need to incline toward extreme monasticism or materialistic greed. Instead, life is based on moderation and justice with respect to attaining pleasure; there is neither extravagance nor miserliness.

In twenty-two verses of the Quran, Allah censures extravagance and rebukes those who are spendthrifts. For example, Allah says,

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[1] *Sunan al-Baihaqi*, vol. 7, p. 272. Al-Bukhari recorded it in his *Saheeh* but without its chain [meaning it is not necessarily an authentic hadith]. Al-Bukhari stated in the Book of Marriage, "Chapter: may one may return if he sees something objectionable at the invitation? Ibn Masood saw a picture in the house so he returned. And ibn Umar invited Abu Ayyoob and he saw in the house coverings on the wall..." Al-Haafidh ibn Hajr stated in *al-Fath* (vol. 9, p. 239), "Ahmad recorded it with a complete chain in *Kitaab al-Wara* as did Musaddad in his *Musnad*, and from his chain al-Tabaraani recorded it in *al-Kabeer* [vol. 1, p. 192]..." The scholar of hadith al-Albaani, in *Adaab al-Zafaaf* (p. 201, al-Maktabah al-Islaamiyyah edition), considered al-Tabaraani's chain good.

[2] *Sharh al-Sunnah*, vol. 9, pp. 147-148.

وَالَّذِينَ إِذَا أَنفَقُوا لَمْ يُسْرِفُوا وَلَمْ يَقْتُرُوا وَكَانَ بَيْنَ ذَلِكَ قَوَامًا

"And those who, when they spend, are neither extravagant nor niggardly but hold a medium (way) between those (extremes)" (*al-Furqaan* 67). Allah also says,

يَابَنِي آدَمَ خُذُوا زِينَتَكُمْ عِنْدَ كُلِّ مَسْجِدٍ وَكُلُوا وَاشْرَبُوا وَلَا تُسْرِفُوا إِنَّهُ لَا يُحِبُّ الْمُسْرِفِينَ

"O Children of Adam! Take your adornment [by wearing proper clothing] at every masjid, and eat and drink but be not excessive. Indeed, He loves not those who commit excesses" (*al-Araaf* 31).

The Prophet (peace be upon him) also cautioned about lavishness and arrogance. He said,

كلوا وشربوا وتصدقوا في غير سرف ولا مَخِيْلَةٍ إن الله تعالى يحب أن يرى أثر نعمته على عبده

"Eat and drink and give in charity but without lavishness or arrogance. Verily, Allah loves the effects of His bounty upon His servant to be seen."[1]

There are also other hadith and reports that encourage moderation, control and justice and fleeing from extravagance and lavishness.

Unfortunately, though, in the same way that the phenomenon of elaborate dowers has spread, there has come to us the disease of extravagance and lavishness in the wedding parties. The people are competing in the large amount of wealth that they are spending. At the same time, many objectionable aspects are also taking place, such as picture taking, mixing between men and women, male and female

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[1] Recorded by al-Nasaai (vol. 5, p. 79), the Book of Zakat, Chapter on being arrogant in giving charity; al-Haakim in *al-Mustadrak* (vol. 4, p. 135), and the wording is from him, from hadith of Amr ibn Shuaib on the authority of his father on the authority of his grandfather. This chain is *hasan*.

singers singing over microphones, using musical instruments and so forth. Lots of wealth is being spent upon those forbidden acts. In fact, this has even led many young men to stay away from marriage because they simply cannot afford the great expenses involved in wedding parties these days. There is no need for such expenses. They are simply an impediment on the road to marriage. They have become part of the necessary aspects of a wedding these days although Islam has nothing to do with them.

Nowadays, one person may even slaughter up to forty or fifty sheep for the wedding party. They may also even slaughter a camel along with that, not to mention the rice, fruits, sweets, gifts and other things that are also involved. Many times, those people who were invited do not come and the meat is left as it was, uneaten, and therefore it is thrown into the garbage while the poor and needy are in great need of extending a hand of help to them as their stomachs are left empty. Allah indeed is the only one who may be turned to for rescue [from this plight].[1]

Another custom that one commonly finds in wedding feasts and parties is what is known as *al-nithaar*. This is where money, almonds, sugar or sweets are flung out to people during the wedding or at other times. It is disliked to do this act during weddings or at other times. It causes people to jostle and swarm after these things and for them to do such is truly demeaning and embarrassing. Furthermore, some people will get those things and others will be left empty-handed. Therefore, it is preferred not to perform this practice.[2]

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[1] From the good things that can remedy this evil is the existence of charitable institutions that will come and pick up the surplus food and distribute it to those who are deserving of it. First, one should not prepare more food than what is needed. If there is more food than what is needed, it should be given to these charitable institutions in order to preserve this bounty of food and to use it in the proper way.

[2] *Al-Mughni* by ibn Qudaamah, vol. 10, p. 208, issue #1221.

Chapter Four
Congratulations upon Marriage and Supplications for the Spouse

The Wisdom behind the Sanctioning of Congratulations

One of the excellent aspects of Islamic law is the congratulating of a Muslim by his Muslim brother whenever something good happens to him and prayers for blessings, continuance of the blessing and the giving of thanks for such blessings. For that reason, the Prophet (peace be upon him) used to pray for blessings, prolonged guidance and a long time of happiness and being together for the newly married couple.

What the Congratulating Person should Say to His Brother

Abu Hurairah narrated that when the Prophet (peace be upon him) wanted to express marital harmony for the one who got married, he would say,

بَارَكَ اللَّهُ لَكَ وَبَارَكَ عَلَيْكَ وَجَمَعَ بَيْنَكُمَا فِي خَيْرٍ

"Allah's blessing for you and blessings upon you. May you be joined together in goodness." Recorded by the five[1] save al-Nasaai. Al-Tirmidhi graded it *sahih*.[2]

It is an imperative on the Muslim to follow the Prophet (peace be upon him) in his example and invoke blessings and pray for a good marriage for his brother Muslims. He should follow the example of the Prophet (peace be upon him) and it is not allowed for him to avoid using those words and instead use the expression that is commonly found among some people today when they congratulate others on their marriage, "Live in harmony and beget sons."[3] This is an objectionable custom and it must be fought.

This disgraceful erroneous act and evil custom was widespread during the Days of Ignorance. It is the congratulations of the times of ignorance. It has now become a slogan and supplication that people use while blessing and congratulating others on marriage. The reason for this is simply ignorance of the rules of the religion and being separated from the guidance of the best of messengers (peace be upon him).

Perhaps the wisdom behind the prohibition of using this expression, in supplicating for the newlywed that he live in harmony and beget sons, is to differ from the ways of the people of Ignorance who used to use that supplication and since it contains a supplication for sons and not daughters. Furthermore, it is void of any supplication for the two spouses. Finally, it contains no mention of the name of Allah, praise for Him and gratitude that is becoming of Him. Therefore, we should restrict ourselves to the words coming from the Prophet (peace be upon him), that combine the qualities of goodness and the different aspects of supplications, praise and remembrance.

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[1] [This is in reference to Abu Dawood, al-Nasaai, al-Tirmidhi, ibn Maajah and Ahmad.—JZ]

[2] *Sunan Abi Dawood* (#2130); *Sunan al-Tirmidhi* (#1091), the Book of Marriage, Chapter on what is to be said to the newlywed; *Sunan ibn Maajah* (#1905), Book of Marriage, Chapter on congratulations for marriage; *Al-Musnad* by Imam Ahmad. It is a *sahih* hadith.

[3] *Masra al-Shirk wa al-Khuraafah* by Khaalid Muhammad Ali al-Haaj, p. 385 (published by Idaarah al-Shu'oon al-Deeniyah, Qatar, 1398 A.H.).

The Honeymoon

The "honeymoon" is also among the objectionable customs and evil phenomena. It is something that was unknown in Islamic societies in the past. This is where the newlyweds, before or after consummation, travel together to some other city or country to live together in one of the hotels of that city or country.

Its Ruling

It is from the evil customs that has crept into Muslim societies. It has become a blindly imitated custom that is geared to the evildoers and ignorant people no mater what its circumstances and events. Traveling to the lands of polytheism and disbelief [as is customarily done by Muslims when they go on honeymoons] is forbidden. The honeymoon, as they call it, is not something that would permit such a trip. There is no necessity or need involved. Many of the things that people involved in honeymoons and ignorant people do are not permissible. In fact, this action increases evil for it combines multiple evils and a great temptation and trial. It has greatly negative effects both on the husband and the wife. The husband may be affected by the customs and ways of those [disbelieving] people and this may lead him to have disdain for his religion and noble customs and inherited values. Those people may even be afflicted with a punishment [from Allah] that may also afflict him [since he is in their midst]. He may even be afflicted with a disease, plague and so forth because of their misfortune.

Similarly, the wife can be affected by the customs and culture of the disbelieving people. She then discards the cord of the religion and the crown of modesty and dignity. She then has disdain for the customs of her land and the ways of the women of her people. She is then swept away by the torrent of open lewdness, freedom from religion and public exposure. We cannot find any explanation for what is going on except the blind following of those people who have strayed from the straight path and are not from the people who follow this religion. We ask Allah for safety and well-being.

Chapter Five
A Warning and a Cure as I See It

I have shown you some— not all— of the evil customs and objectionable phenomena resulting from the Muslims blindly following others in matters related to the family.

If only the Muslims would be following the others in the permissible matters related to those actions— even though then the Muslims would still be contaminated by the disease of imitating [the disbelievers], which a Muslim must do his best to be cautious about and protect himself from. However, they have gone beyond that into imitating them in many things that are forbidden and practices that go against the rules and etiquette of Islam, as the Muslim households depart from the beautiful customs and fine practices that are in accordance with Islamic law and produce what is most beneficial.

We have seen examples of this kind of imitation in many areas, such that it reaches all sectors of society in a most astonishing fashion throughout many Muslim countries. For example, during the period of engagement, the man and woman are left free to be alone, go on trips together, go out for strolls, call each other on the phone and meet with each other with the claim that it is giving them a chance to know each other and to understand each other's character and other flimsy excuses for such acts. Similar to that is the custom of the man and woman wearing engagement rings. Although it is sanctioned for a woman to wear gold and other jewelry, how is it permissible for a man to wear a gold ring on the occasion of his engagement or marriage? Explicit hadith have stated such is forbidden for men.

The phenomenon of this blind imitation exhausts the husband with the burdens of the dower, gifts— and other burdens of having a big wedding party in amusement places, hotels, large tents and so on. [Furthermore, the parties include many] forbidden acts related to extravagance, lavishness, lewdness and so on. [This is all in addition] to

the other evil practices and purposeless phenomena that were mentioned, including the honeymoon and other things. It is a must upon us to seek a cure to these happenings whose ultimate outcomes are expected to be nothing but dangerous.

In my view, the practical method to improve the situation of the Muslims concerning these matters and to remedy these and other problems must begin with the following: It must begin with the callers to Islam, leaders of society, thinkers and reformers in all of their different areas of expertise. They must fulfill their obligation in the proper manner by guiding people to what is right, showing what is correct, refuting what is false, ordering good and preventing evil. They must make the realities clear and expose the harm of these customs. They must eradicate these evils and sincerely advise the leaders of the Muslims and the general masses. They must call them to adhere to the guidance of Islam and act upon it openly and privately. They must tie this thought into practical action so that the ordering of good and preventing of evil is not simply an idea that has no practical role in the lives of man other than that they are theoretically convinced by it. Those people who are responsible [for weddings and so forth] must have fear of Allah with respect to their sons and daughters and fulfill their responsibilities in the proper manner.

Chapter Six: Etiquette of the Wedding Night and Marital Relations[1]

This chapter is a concise discussion explaining what every newlywed must or should do on the wedding night. It also explains some of the etiquette related to sexual relations between the spouses.

Etiquette Related to the Wedding Night and Consummation

The following aspects are recommended when the man is about to consummate the marriage:

First, he should make his wife feel comfortable by presenting to her something to drink, sweets or something similar. This is based on what is authentically narrated by Imam Ahmad from the hadith of Asmaa bint Yazeed ibn al-Sakin who said: I prepared and beautified Aishah for the Messenger of Allah (peace be upon him). Then he came and I called him to see her in all her beauty. He came and sat next to her. He was brought a large cup that contained milk. He drank and then handed it to her. She lowered her head and was shy. Asmaa then said: I rebuked her and told her to take it from the hand of the Messenger of Allah (peace be upon him). She took it and drank some.[2]

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[1] See *Ishrah al-Nisaa* by al-Nasaai (may Allah have mercy on him); *al-Inshiraah fi Adaab al-Nikaah* by Abu Ishaaq al-Huwaini; *Adaab al-Zifaaf* by Shaikh al-Albaani; and the other references mentioned later in the footnotes of this chapter.

[2] *Al-Musnad*, vol. 6, pp. 438, 452, 453, 458.

Second, he should put his hand on her head and pray for her. The evidence for this is the authentic hadith in which the Prophet (peace be upon him) said,

إِذَا تَزَوَّجَ أَحَدُكُمْ امْرَأَةً أَوِ اشْتَرَى خَادِمًا فليأخذ بناصيتها وليسم الله عز وجل وليدع بالبركة وَلْيَقُلِ اللَّهُمَّ إِنِّي أَسْأَلُكَ خَيْرَهَا وَخَيْرَ مَا جَبَلْتَهَا عَلَيْهِ وَأَعُوذُ بِكَ مِنْ شَرِّهَا وَمِنْ شَرِّ مَا جَبَلْتَهَا عَلَيْهِ

"If one of you marries a woman or buys a servant, he should take her by her forelock, mention Allah's name [saying, 'In the name of Allah'] and pray for blessings by saying, 'O Allah, I ask you for her good and the good of what you have dispositioned her toward and I seek refuge from her evil and the evil you have dispositioned her toward.'"[1]

Third, he should pray two *rakat*s with her. This has been narrated from some of the early scholars. For instance, there is the hadith of Abu Saeed, the slave of Abu Usaid. Abu Saeed, "I married while I was a slave. I invited a number of the Companions of the Prophet (peace be upon him), including ibn Masood, Abu Dharr and Hudhaifah. The *iqaamah* for the prayer was given and Abu Dharr stepped forward to lead the prayer. They said, 'No.' He said, 'Is it like this?' They said, 'Yes.'" So I led them in the prayer while I was an owned slave. They taught me by saying, "When your wife comes to you, pray two *rakat*s and then ask for the good of what has come to you and seek refuge from its evil. Then, it is your affair and your wife's affair."[2]

Fourth, it is recommended for him, before he comes to her, to use the toothstick to purify his mouth to prevent it from having an unpleasant smell. The same is true with respect to her. Or they can use a

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[1] Recorded by al-Bukhari in *Khalaq Afaal al-Ibaad*, p. 22; Abu Dawood (#2160) in the Book of Marriage, Comprehensive chapter on marriage; ibn Maajah (vol. 1, p. 592) and al-Haakim in *al-Mustadrak*, vol. 2, p. 185. [According to Saleem al-Hilaali, this hadith is *hasan*. See Saleem al-Hilaali, *Sahih Kitaab al-Adhkaar wa Dhaeefuhu* (Madinah: Maktabah al-Ghurabaa al-Athariyyah, 1997), vol. 2, p. 700.—JZ]

[2] Recorded by Shaikh al-Albaani in *Adaab al-Zifaaf* (p. 94) and he attributed it to ibn Abu Shaibah, saying, "Its chain is *sahih* back to Abu Saeed." He also presents another incident. Refer to it if you wish.

toothbrush and toothpaste. This will make it easier for them to have good relations and come closer together. This aspect is alluded to in the hadith of Shuraih ibn Haani who said, "I asked Aishah what the Prophet (peace be upon him) would begin with when he entered his house and she said, 'The toothstick.'"[1]

Fifth, when the man desires to have intercourse with her, he should say,

بِسْمِ اللَّهِ اللَّهُمَّ جَنِّبْنَا الشَّيْطَانَ وَجَنِّبِ الشَّيْطَانَ مَا رَزَقْتَنَا

"In the name of Allah, O Allah, ward off Satan from us and ward off from Satan what You grant us." This has benefits to it, including what the Prophet (peace be upon him) explicitly stated at the end of that hadith,

فَإِنْ قَضَى اللَّهُ بَيْنَهُمَا وَلَدًا لَمْ يَضُرَّهُ الشَّيْطَانُ

"Then if Allah decrees that they should have a child, Satan will never harm him."[2]

Note: The husband may come to his wife and have sexual intercourse with her in any manner he wishes and in any position he likes as long as it is through the woman's sexual organ. This is proven by what Muslim recorded in his *Sahih*[3] on the authority of Jaabir who said: The Jews would say that if a man came to his wife from behind but through the vagina, the child would be cross-eyed. Then the verse was revealed, "Your wives are a tilth for you, so go into your tilth when and

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[1] Recorded by Muslim (#253), the Book of Purity, Chapter on the toothstick.

[2] Recorded by al-Bukhari (#5165), vol. 9, p. 228—with its commentary *Fath al-Baari*. Ibn Hajr stated a number of interpretations for the words, "Satan will never harm him." He stated, "From the best of them is the interpretation that Satan will never harm [the child] as the result of his father having intercourse with his mother." [It should be noted that the exact wording above, "Then if Allah decrees that they should have a child, Satan will never harm him," is actually from *Sunan al-Tirmidhi*, although al-Bukhari has a narration that expresses the same meaning.—JZ]

[3] Number 1435 [117] [119], the Book on Marriage, Chapter on the permissibility of [a man] having intercourse with his wife in her vagina but from behind, without approaching the anus.

how you please" (*al-Baqarah* 223)." Al-Zuhri added in his narration, "If you wish, from in front [on top] and if you wish other than from in front, but it must always be through [the] one opening."

In a narration recorded by al-Tirmidhi, ibn Abbaas stated, "From the front and from the back but stay away from the anus and [while the woman is] menstruating."[1]

In a narration recorded by Abu Dawood, ibn Umar stated in explaining the aforementioned verse, "From in front, from behind or lying on the backs, meaning through the place of the delivery of the child."[2]

Muslim men and women must be very cautious about going against this command. A strong warning and real threat has come concerning this matter. The Prophet (peace be upon him) said,

مَنْ أَتَى حَائِضًا أَوِ امْرَأَةً فِي دُبُرِهَا فَقَدْ كَفَرَ بِمَا أَنْزَلَ اللَّهُ عَلَى مُحَمَّدٍ

"Whoever has intercourse with a menstruating woman or with a woman through the anus has committed disbelief in what has been revealed to Muhammad."[3]

Ibn Abbaas was asked about a man who had intercourse through the anus of a woman and he said, "That is *kufr* (disbelief)."[4]

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[1] *Al-Sunan* (#2984), Book of *Tafseer* (Quranic commentary), Chapter on *Soorah al-Baqarah*. Its chain is good.

[2] *Al-Sunan* (#2164), Book on Marriage. Its chain is good. Al-Haakim also recorded it (vol. 2, pp. 195, 279). [Actually, this narration in *Sunan Abu Dawood* is from ibn Abbaas who began it by saying that ibn Umar had misunderstood the aforementioned verse.—JZ]

[3] Recorded by al-Nasaai in *Ishrah al-Nisaa* (#130); Abu Dawood (#3904), Book on Medicine, Chapter on going to the soothsayers; al-Tirmidhi (#135), Book on Purity, Chapter on the disapproval of having intercourse with a menstruating woman; Ibn Maajah (#639), Book on Purity and its Recommended Acts, Chapter on the prohibition of going to a menstruating woman [for sexual intercourse]; Ahmad in *al-Musnad*, vol. 2, pp. 408, 476; al-Daarimi in his *Sunan*, vol. 1, p. 259; al-Baihaqi in *al-Sunan al-Kubra*, vol. 7, p. 198. It is an authentic hadith.

[4] Recorded by al-Nasaai in *Ishrah al-Nisaa* (#118). Ibn Hajr declared its chain *sahih* in *Talkhees al-Habeer*, vol. 3, p. 181. Before him, ibn Katheer did the same in his *Tafseer* while commenting on verse 223 of *soorah al-Baqarah*. [It should be noted that as the long as the person does not believe in the permissibility of the act,

Ibn al-Qayyim noted a number of evils associated with the act of sodomy. These include health and psychological effects upon both the man and the woman. It is an act that is hated naturally and by sound tastes. It produces anxiety, worry, estrangement and hatred between the spouses. It brings an end to modesty and excellent qualities. It is a cause for the person to become very tense; his face becomes darkened; the light of his heart is extinguished; and it leads to other evils.

It is recommended for the husband to have foreplay with his wife before sexual intercourse. In one of the narrations in *Sahih al-Bukhari* of the hadith of Jaabir, it states that when he got married, the Prophet (peace be upon him) asked him if he married a virgin or a non-virgin. He replied that she was a non-virgin. The Prophet (peace be upon him) then told him, "Why didn't you marry a virgin [from among the young women who stay in seclusion] such that you may 'kiss with her.'"[1] This particular wording is an inference to sucking her lip and tasting her saliva. This is something that occurs during foreplay and kissing. Ibn Hajr alluded to this interpretation in *al-Fath* and it is the interpretation that al-Qurtubi leans toward.[2]

If the man fulfills his desire with his wife, he should not leave her until she also fulfills her desire. This is more fitting to engender love and good feelings between them.

If he finds the strength to repeat the act of sexual intercourse after he has finished, he should first make ablution as this is part of the sunnah. The Messenger of Allah (peace be upon him) said,

إذا أتى أحدكم أهله ثم أراد أن يعود فليتوضأ

"If one of you has gone to his wife [and had sexual intercourse] and he wishes to repeat the act, he should [first] make ablution."[3]

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it is a "lesser *kufr*" that does not take the person completely out of the fold of Islam, although it is a great evil.—JZ]

[1] *Sahih al-Bukhari* (#5080), the Book of Marriage, Chapter on marrying a non-virgin.

[2] *Fath al-Baari*, vol. 9, p. 121.

[3] Recorded by Muslim (#308), the Book on Menstruation, Chapter on the permissibility of sleeping while one is sexually defiled and the recommendation to make ablution and wash his private part when he wishes to eat, drink, sleep or have

Note: When the menses come to an end, in order to remove any foul smell, the woman should follow up any traces of blood with a piece of cotton containing some musk or something similar. This is an Islamic behavior although very few women pay attention to it. It is pointed out in the hadith where a woman asked the Prophet (peace be upon him) about *ghusl* [the complete bathing after menstruation] and he said, "Take some cotton with musk on it and purify yourself with it."[1]

Al-Nawawi wrote,

> The purpose of using perfume is to remove the unpleasant smell. This is a preferred act for everyone who is cleaning herself from menses or post-partum bleeding. It is disliked for one not to do it when she has the ability to do it. If she finds no musk, she may use perfume. If she finds no perfume, water should suffice.[2]

It is allowed for the husband, after he has had sexual intercourse with his wife, to sleep in the same clothes in which they had sexual intercourse. The same is true for the wife. However, this is after they have removed any bothersome substance with a rag [or something that suffices for its removal]. They may even pray in such clothing if they wish.

Aishah said, "If a woman is intelligent, she should have a rag with her. If her husband has sexual intercourse with her, she gives it to him to wipe himself off and then she wipes herself off. Then they can pray in their clothing as long as no sexual fluid had come upon it."[3]

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sexual intercourse [again]. In a narration referred to by Shaikh al-Albaani in *Adaab al-Zifaaf* (p. 107), it states, "That will make him more invigorated in repeating the act." Al-Albaani ascribed this hadith to Abu Nuaim.

[1] Recorded by al-Bukhari (#314), the Book on Menstruation, Chapter on the woman rubbing herself [with cotton] to clean herself from her menses; Muslim (#332), the Book on Menstruation, Chapter on the recommendation to use a musk-scented piece of cloth over the traces of blood while cleaning after menses.

[2] *Fath al-Baari*, vol. 1, p. 416.

[3] Recorded by al-Baihaqi, vol. 2, p. 411; al-Dhahabi in *Seer Alaam al-Nubalaa*, vol. 9, p. 283. [A cursory look at the chains found in these two sources shows that the hadith has been narrated from al-Auzaa'ee. Al-Baihaqi records the hadith from Muhammad ibn Musab from al-Auzaa'ee while al-Dhahabi records it from Sadaqah from al-Auzaa'ee. Sadaqah has been heavily criticized by some of the great scholars

Muawiyah ibn Abu Sufyaan (may Allah be pleased with him) asked his sister [and one of the wives of the Prophet (peace be upon him)], Umm Habeebah (may Allah be pleased with her), "Would the Messenger of Allah (peace be upon him) pray in the same clothing in which he had sexual intercourse with you?" She said, "Yes, if he did not see anything harmful [impure] on it."[1]

It is allowed for him to see her private parts as well as for her to see his. This is based on the hadith in which Aishah said, "I used to wash myself from one bowl with the Prophet (peace be upon him) while we were in a state of sexual defilement."[2]

If a man calls his wife to his bed [for the purpose of sexual intercourse] it is obligatory upon her to respond without delay, even if she is not in need of that act. This is based on the Prophet's statement,

وَالَّذِي نَفْسُ مُحَمَّدٍ بِيَدِهِ لا تُؤَدِّي الْمَرْأَةُ حَقَّ رَبِّهَا حَتَّى تُؤَدِّيَ حَقَّ زَوْجِهَا وَلَوْ سَأَلَهَا نَفْسَهَا وَهِيَ عَلَى قَتَبٍ لَمْ تَمْنَعْهُ

"By the One in whose hand is the soul of Muhammad, a woman does not fulfill the rights of her Lord until she fulfills the rights of her husband. Even if he calls her [to have sexual intercourse with her] while she is on a camel's saddle, she does not refuse him."[3] The implication is that if a husband wants to satisfy his desire with his wife and at the time she is riding on the back of a camel and it is not allowed for her to prevent him

of hadith and Muhammad ibn Musab is considered particularly weak in his narrations on the authority of al-Auzaa'ee. Hence, there remains strong doubt about this particular narration. For information about Sadaqah and Muhammad ibn Musab, see Ahmad ibn Hajr, *Tahdheeb al-Tahdheeb* (Beirut: Muassasah al-Risaalah, 1996), vol. 2, pp. 206-207 and vol. 3, pp. 702-703, respectively.—JZ]

[1] Recorded by Abu Dawood (#366); al-Nasaai, vol. 1, p. 155. It is an authentic hadith.

[2] Recorded by al-Bukhari (#250), the Book on *Ghusl*, Chapter on a man washing himself with his wife; Muslim (#321), the Book on Menstruation, chapter on the amount of water it is recommended to use for *ghusl* due to sexual intercourse and the washing of a man and woman from one bowl at the same time.

[3] Recorded by Ahmad, vol. 4, p. 381; ibn Maajah, vol. 1, p. 570. [Al-Albaani calls this hadith *hasan sahih*. See al-Albaani, *Saheeh Sunan ibn Maajah*, vol. 1, p. 312.—JZ]

[and not respond to his call] at that time, what must be the ruling during other circumstances?

If a man calls his wife to the bed and she refuses, the angels curse her until the morning time. The Prophet (peace be upon him) said,

إِذَا بَاتَتِ الْمَرْأَةُ هَاجِرَةً فِرَاشَ زَوْجِهَا لَعَنَتْهَا الْمَلائِكَةُ حَتَّى تُصْبِحَ

"If a woman spends the night boycotting the bed of her husband, the angels curse her until the morning." Another narration states, "until she returns [to the bed]."[1]

Another wording in *Sahih Muslim* states,

وَالَّذِي نَفْسِي بِيَدِهِ مَا مِنْ رَجُلٍ يَدْعُو امْرَأَتَهُ إِلَى فِرَاشِهَا فَتَأْبَى عَلَيْهِ إِلاَّ كَانَ الَّذِي فِي السَّمَاءِ سَاخِطًا عَلَيْهَا حَتَّى يَرْضَى عَنْهَا

"By the One in whose hand is my soul, no man calls his wife to her bed and she refuses except that the One in the heaven is angry with her until he [her husband] becomes pleased with her."[2]

I must add: It is inconceivable that a woman who believes in Allah and the Last day would, after hearing this far-reaching and effective warning, do anything but submit to it and respond by obedience to Allah and His Messenger.

The believer is obliged to lower his gaze. If he happens to see a woman, he should turn his sight away. If he has some feeling due to that sight, he should go to his wife in order to calm his desires. This is based on the hadith of Jaabir ibn Abdullah (may Allah be pleased with them) who said that the Messenger of Allah (peace be upon him) said,

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[1] Recorded by al-Bukhari in his *Sahih* (#5194), Book on Marriage, Chapter on if the woman spends the night avoiding the bed of her husband; Muslim (#1436), Book on Marriage, Chapter on the prohibition of the wife keeping herself from the bed of her husband.

[2] Muslim (#1436) [121].

إِذَا أَحَدُكُمْ أَعْجَبَتْهُ الْمَرْأَةُ فَوَقَعَتْ فِي قَلْبِهِ فَلْيَعْمِدْ إِلَى امْرَأَتِهِ فَلْيُوَاقِعْهَا فَإِنَّ ذَلِكَ يَرُدُّ مَا فِي نَفْسِهِ

"If one of you is very pleased by a woman and something occurs in his heart, he should proceed to his wife and have intercourse with her as that will repel what is in his soul."[1] In the narration in *Sunan al-Tirmidhi*, it states, "He should go to his wife for she has what is similar to what [the other woman] has."[2]

When a man has intercourse with his wife, he will be rewarded for that act. The Prophet (peace be upon him) stated, "In having intercourse [with your wife] there is an act of charity [for which he shall be rewarded]." The people said, "O Messenger of Allah, one of us fulfills his desires and he will be rewarded for that?" He replied,

أَرَأَيْتُمْ لَوْ وَضَعَهَا فِي حَرَامٍ أَكَانَ عَلَيْهِ فِيهَا وِزْرٌ فَكَذَلِكَ إِذَا وَضَعَهَا فِي الْحَلَالِ كَانَ لَهُ أَجْرًا

"Do you not see that if he fulfills it in a forbidden way that he will have its burden. In the same way if he fulfills it in a permissible way, he shall have a reward."[3]

In his commentary to this hadith, al-Nawawi stated,

> This contains evidence that permissible deeds can become acts of obedience [to Allah] by sincere intentions. Sexual intercourse becomes an act of worship if the person intends by it the fulfilling of the rights of his wife and to treat her in a good manner as Allah has ordered him,

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1 *Sahih Muslim* (#1403) [10], the Book on Marriage, Chapter on the recommendation that if one sees a woman having an effect on his soul, he should go to his wife or slave-girl and have intercourse with her.

2 *Sunan al-Tirmidhi* (#1158), Book on Marriage, Chapter on what has been narrated about a man seeing a woman who pleases him.

3 Recorded by Muslim (#1006), Book on Zakat, Chapter on clarifying that the word *sadaqah* (charity) is used for every type of good deed.

seeking of a pious child, keeping himself chaste, keeping his wife chaste, keeping them from looking at, thinking about or considering what is forbidden or other sound intentions.

Note: It is not allowed for either the man or woman to spread the secrets of their sexual relations and to talk about them among other men or women. The evidence for this is what was narrated by Abu Saeed al-Khudri from the Prophet (peace be upon him) who said,

إِنَّ مِنْ أَشَرِّ النَّاسِ عِنْدَ اللَّهِ مَنْزِلَةً يَوْمَ الْقِيَامَةِ الرَّجُلَ يُفْضِي إِلَى امْرَأَتِهِ وَتُفْضِي إِلَيْهِ ثُمَّ يَنْشُرُ سِرَّهَا

"Certainly among the people with the most evil position with Allah on the Day of Resurrection is a man who satisfies himself with his wife and the woman who satisfies herself with him and then they spread their private relations."[1] Similarly, Asmaa bint Yazeed said, "I was with the Messenger of Allah (peace be upon him) and the men and women were sitting. He then said, 'Perhaps a man says what he has done with his wife and perhaps a woman informs others about what she did with her husband.' The people remained silent. Then I said, 'By Allah, it is so, O Messenger of Allah. They [the women] do it and they [the men] do it.' He said, 'Do not do so for that is similar to a devil meeting another devil in the road and he has intercourse with her while the people are watching.'"[2]

It is recommended for him to have intercourse with her on Friday before the prayer, based on the hadith,

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[1] Recorded by Muslim (#1437), Book on Marriage, Chapter on the prohibition of spreading the private affairs of women.

[2] Recorded by Imam Ahmad in *al-Musnad* (vol. 6, pp. 456-457). Its chain contains Shahr ibn Haushab. In *al-Taqreeb* by ibn Hajr it states, "[He is] honest but has lots of *mursal* reports [reports from those he did not meet]." However, his narration is supported by other reports found in Ahmad (vol. 2, pp. 40 and 541), Abu Dawood (#2174) and others.

مَنْ غَسَّلَ وَاغْتَسَلَ يَوْمَ الْجُمُعَةِ وَبَكَّرَ وَابْتَكَرَ وَمَشَى وَلَمْ يَرْكَبْ فَدَنَا مِنَ الإِمَامِ فَاسْتَمَعَ وَلَمْ يَلْغُ كَانَ لَهُ بِكُلِّ خُطْوَةٍ عَمَلُ سَنَةٍ أَجْرُ صِيَامِهَا وَقِيَامِهَا

"For whoever 'makes his wife make *ghusl*' and he himself makes *ghusl* on Friday, leaves early and timely, walks and does not ride, sits close to the mosque, and listens without doing anything that diverts his attention, he will have for every step he takes the reward of a year's worth of fasting and praying [at night]."[1] Ibn Khuzaimah stated that the first portion of the hadith means that the person has sexual intercourse with his wife, making it obligatory upon her and him to make *ghusl*.[2]

Another manner that the husband should tend to is that when he is returning from a journey, he should not return to his wife unexpectedly. Instead, he should tell her when he is planning on returning. The benefit of that behavior is that the wife may then prepare for her husband's return by cleaning herself, applying perfume and so forth. It is sanctioned for him to have sexual intercourse with his wife after he returns from a trip, especially if he had been gone for a long time.

The following hadith allude to the matters that we have just mentioned:

Jaabir ibn Abdullah narrated that the Prophet (peace be upon him) said,

إِذَا أَطَالَ أَحَدُكُمُ الْغَيْبَةَ فَلا يَطْرُقْ أَهْلَهُ لَيْلاً

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[1] Recorded by Abu Dawood (#345, 346 and 349), Book on Purity, Chapter on the *ghusl* for Friday; al-Tirmidhi (#496), Book on Prayer, Chapter on what has been narrated concerning the virtues of making *ghusl* on Friday. Ibn Khuzaimah (vol. 3, p. 128) and ibn Hibbaan (#559) have declared this hadith *sahih*.

[2] [It should be noted that this is one (and perhaps not the strongest) interpretation of this hadith. For a more detailed discussion of the meaning of this hadith, see this translator's *The Friday Prayer Part I: The Fiqh* (Ann Arbor, MI: IANA, 1998, 2nd edition), pp. 64-65.—JZ]

"If one of you is gone for a long time, he should not return unexpectedly[1] to his wife at night."[2]

The Prophet (peace be upon him) also said,

إِذَا قَدِمَ أَحَدُكُمْ لَيْلاً فَلا يَأْتِيَنَّ أَهْلَهُ طُرُوقًا حَتَّى تَسْتَحِدَّ الْمُغِيبَةُ وَتَمْتَشِطَ الشَّعِثَةُ

"If one of you returns at night, he should not come to his wife unexpectedly until the one whose husband has been gone can remove her pubic hairs and clean the filth from her hair by combing it."[3]

Jaabir also said, "The Messenger of Allah (peace be upon him) forbade that a man returns expectedly at night to his wife, finding something that will arouse his suspicion concerning the wives or coming across some of their faults."[4]

Ibn Hajr explained the above hadith, stating in his commentary,

> The one who rushes upon his household [unexpectedly] after a long absence without them realizing it will usually come across some displeasing aspects. He may find his wife unprepared with respect to being clean and beautified in a way that is desired from a woman and that may cause some estrangement between them. The Prophet (peace be upon him) alluded to that aspect when he said, "[until she] can remove her pubic hairs and clean the filth from her hair by combing it." From that, he may dislike to have contact with her while she is in that state in which

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1 The phrase used here means to return from a journey at night or at any other time unexpectedly. See *Fath al-Baari*, vol. 9, p. 340.

2 Recorded by al-Bukhari (#5244), Book on Marriage, Chapter on not coming unexpectedly to one's wife at night if one has been gone long, lest he may find something that will arouse his suspicion concerning the wives or he may come across some of their faults.

3 Recorded by Muslim (#715) [184], Book on Governmental Authority, Chapter on the disapproval of returning unexpectedly at night for the one who returns from a journey.

4 Recorded by Muslim (#715) [57], Chapter on Governmental Authority, Chapter on the disapproval of returning unexpectedly at night.

> she has not cleaned herself and so he does not come upon her while she is in a state that will cause him to dislike her. Or he may come across her while she is an unpleasant state. The law tries to conceal people's faults. The Prophet (peace be upon him) alluded to this aspect when he said, "finding something that will arouse his suspicion concerning the wives or coming across some of their faults." Based on that, though, if someone informs his wife about when he is going to arrive and that he should be coming at such and such time, this prohibition [of coming at night] does not apply to him.[1]

The wife must try to make herself appealing to her husband by beautifying herself for him and making herself attractive, in order for him not to shun her. One of the wives of the Prophet (peace be upon him) said to him, "O Messenger of Allah, if a woman does not beautify herself for her husband, she will not be important to him."[2] The last part means she will become a burden upon him and he will not like to look at her.

It is authentically reported that Aishah would beautify herself for the Prophet (peace be upon him). The Prophet (peace be upon him) came upon her once and she had two silver rings. He said, "What is this, O Aishah?" She replied, "I made them in order [to wear them] to beautify myself for you, O Messenger of Allah."[3]

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[1] See *Fath al-Baari*, vol. 9, p. 340.

[2] Recorded by al-Nasaai (vol. 9, p. 159), Book on Beautification, Chapter on the disapproval of women showing their jewelry and gold; Ahmad in *al-Musnad* (vol. 2, p. 440), from the hadith of Abu Hurairah. [This particular hadith has been graded weak by both al-Albaani and al-Arnaoot, et al. See Muhammad Naasir al-Deen al-Albaani, *Dhaeef Sunan al-Nasaai* (Beirut: al-Maktab al-Islaami, 1990), p. 228; Shuaib al-Arnaaot and Aadil Murshid's footnotes to Ahmad ibn Hanbal, *Musnad al-Imaam Ahmad ibn Hanbal* (Beirut: Muassasah al-Risaalah, 1997), vol. 15, pp. 423-424.—JZ]

[3] Recorded by Abu Dawood (#1565), Book on Zakat, Chapter on the meaning of a treasure and the zakat on jewelry. [According to al-Albaani, this hadith is *sahih*. See al-Albaani, *Saheeh Sunan Abi Dawood*, vol. 1, p. 291.—JZ]

Chapter Seven
The Rights of Spouses

Upon examination, we find that the rights of the spouses fall into three categories: the rights of the husband, the rights of the wife and common rights of both spouses. Each shall be explained separately below.

The Rights of the Husband upon His Wife

The foundation upon which the husband's rights over his wife are based is the verse in the Quran,

الرِّجَالُ قَوَّامُونَ عَلَى النِّسَاءِ بِمَا فَضَّلَ اللَّهُ بَعْضَهُمْ عَلَى بَعْضٍ وَبِمَا أَنفَقُوا مِنْ أَمْوَالِهِمْ فَالصَّالِحَاتُ قَانِتَاتٌ حَافِظَاتٌ لِلْغَيْبِ بِمَا حَفِظَ اللَّهُ وَاللَّاتِي تَخَافُونَ نُشُوزَهُنَّ فَعِظُوهُنَّ وَاهْجُرُوهُنَّ فِي الْمَضَاجِعِ وَاضْرِبُوهُنَّ فَإِنْ أَطَعْنَكُمْ فَلَا تَبْغُوا عَلَيْهِنَّ سَبِيلًا

"Men are in charge of women by [right of] what [qualities] Allah has given one over the other and what they spend [in support] from their wealth. So righteous women are devoutly obedient, guarding in [the husband's] absence what Allah would have them guard. But those [women] from whom you fear defiance, [first] admonish them; [then if they persist] forsake them in their beds and [finally] strike them [lightly]. But if they obey you [once more], seek no means against them" (*al-Nisaa* 34).

Imam Abu al-Fidaa Ismaeel ibn Katheer stated in his commentary to the words, "Men are in charge of women":

> Men are in charge of women "by [right of] what [qualities] Allah has given one over the other." In other words, [in general] men are superior to women and men are [in general] better than women. This is why prophethood was only given to men. The same is true for the supreme governmental head, as the Prophet (peace be upon him) said, "A people will not prosper whose affairs are [at the controls of] a woman." Recorded by al-Bukhari.[1] The same is true for judgeship and other positions. [They are also in charge of women] due to "what they spend [in support] from their wealth," that is, the dower and maintenance that Allah has made obligatory upon them in His Noble Book and in the sunnah of His Messenger (peace be upon him). Man is better than woman in himself and he has preference over her and superiority. Hence, it is most appropriate that he be in charge of her.[2]

This does not mean that the same is true for each individual. The superiority of one class of beings over another does not mean that each individual of that class is superior to the other class. Therefore, it is not impossible that some women are greatly superior to some men. Looking at their legacy, virtues and great effects on this nation, that fact [that individual women are not always inferior to men] is something that is witnessed in itself.

What Umm Salamah narrated also indicates [the rights of the husband upon her]. She stated that the Messenger of Allah (peace be upon him) said,

أَيُّمَا امْرَأَةٍ مَاتَتْ وَزَوْجُهَا عَنْهَا رَاضٍ دَخَلَتِ الْجَنَّةَ

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[1] Number 4425, Book of Military Campaigns, Chapter on the Prophet (peace be upon him) writing to the Emperors of Persia and Rome, and also #7099, The Book on Trials, Chapter on the trial that will emerge like waves on an ocean.

[2] *Tafseer al-Quran al-Adheem*, vol. 1, p. 537 (Riyadh: Maktabah al-Salaam).

"Any woman who dies with her husband being pleased with her shall enter Paradise."[1]

The most obvious of the rights of the husband upon his wife are the following:

(1) Obedience

The evidence for this is in what Husain ibn Muhsin narrated: My aunt narrated to me that she said, "I came to the Messenger of Allah (peace be upon him) and he said, 'Are you married?' I said, 'Yes.' He said, 'How are you with respect to him?' She said, 'I do not fail him in a anything except for what I am not able to do.' He said, 'See how you are with respect to him for he is your Paradise or your Hell-fire.'"[2]

The meaning is, "Are you loving towards him, responding to his call or distancing yourself from him, ungrateful with respect to his goodness and favors towards you. You should be very careful for he is the reason for your entering Paradise if he is pleased with you or your entering the Fire if he is displeased with you."[3]

And Abu Hurairah narrated that the Messenger of Allah (peace be upon him) said,

إذا صلّت المرأة خمسها وحصّنت فرجها وأطاعت بعلها دخلت من أي أبواب الجنة شاءت

[1] Number 1171, the Book of Breastfeeding, Chapter on what has been narrated concerning the right of the husband upon the wife. It has supporting evidence in narrations in ibn Maajah and al-Haakim. [According to al-Albaani, this hadith is weak. See Muhammad Naasir al-Deen al-Albaani, *Dhaeef al-Jaami al-Sagheer* (Beirut: al-Maktab al-Islaami, 1988), pp. 327-328.—JZ]

[2] Recorded by al-Nasaai in *Ishrah al-Nisaa* (pp. 1067-109). Al-Mundhiri declared its chain *hasan* in *al-Targheeb wa al-Tarheeb* (vol. 3, p. 53). Al-Haakim also recorded it (vol. 2, p. 189) as did al-Baihaqi (vol. 7, p. 291). Ahmad recorded it in *al-Musnad* (vol. 4, p. 341). [According to al-Albaani, this hadith is *hasan*. See al-Albaani, *Saheeh al-Jaami al-Sagheer*, vol. 1, p. 316.—JZ]

[3] See *Faidh al-Qadeer*, vol. 3, p. 60, by al-Munaawi.

"If the woman prayed her five daily prayers, guarded her chastity and obeyed her husband, she will enter Paradise through any gate she wills."[1]

However, the obedience by the wife to her husband is only with respect to those things that are good and acceptable. If he orders her to do something forbidden or to fail to perform an obligatory act, she must refuse to obey him. The Prophet (peace be upon him) has said,

لا طَاعَةَ فِي مَعْصِيَةِ اللَّهِ إِنَّمَا الطَّاعَةُ فِي الْمَعْرُوف

"There is no obeisance in what is an act of disobedience to Allah. Obedience is only with respect to what is good and acceptable (*maroof*)."[2]

(2) Remaining in the House and Not Going out except with the Husband's Permission

Allah says in the Quran,

وَقَرْنَ فِي بُيُوتِكُنَّ وَلا تَبَرَّجْنَ تَبَرُّجَ الْجَاهِلِيَّةِ الأُولَى

"And stay in your houses and do not display yourselves like that during the times of Ignorance" (*al-Ahzaab* 33). In this verse, Allah ordered the wives of the Prophet (peace be upon him), and the women of this Nation also follow them in this order, to remain in their houses as a protection

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1 Recorded by ibn Hibbaan in his *Saheeh* (#4163), The Book on Marriage: Mention of the prescribing of Paradise for the woman when she obeys her husband as well as fulfills the obligatory duties toward Allah. [This hadith has been graded *sahih* by both al-Albaani and Shuaib al-Arnaoot. See al-Albaani, *Saheeh al-Jaami al-Sagheer*, vol. 1, p. 174; Ameer al-Deen al-Faarisi, *Al-Ihsaan fi Taqreeb Saheeh ibn Hibbaan*, Shuaib al-Arnaoot, ed. (Beirut: Muassasat al-Risaalah, 1991), vol. 9, p. 471.—JZ]

2 Recorded by al-Bukhari (#4340), Book on Military Expeditions, Chapter on the expedition of Abdullah ibn Hudhaafah al-Sahmi and Alqamah ibn Muharriz al-Mudlaji; Muslim (#1840) Book on Governmental Authority, Chapter on the obligation to obey the ruler on matters that are not acts of disobedience and its prohibition on matters that are acts of disobedience.

for them and a way of guarding the rights of their husbands. They are not to leave their houses except due to true needs.[1]

Shaikh al-Islam ibn Taimiyah stated,

> It is not allowed for a wife to leave her house except by the permission of her husband. It is not allowed for anyone to take her from him or to prevent her from going to him, even if she be a nursing mother, midwife or of any other type of occupation. If she leaves the house of her husband without his permission, she is being recalcitrant (*naashizah*), disobedient to Allah and His Messenger and deserving of punishment.[2]

(3) Responding to His Call When He Calls Her to His Bed

This was discussed earlier.

(4) Not Allowing Anyone to Enter His House except with His Permission

It is not permissible for the wife to allow someone to enter her husband's house if that is displeasing to the husband. The Prophet (peace be upon him) said,

وَلَكُمْ عَلَيْهِنَّ أَنْ لا يُوطِئْنَ فُرُشَكُمْ أَحَدًا تَكْرَهُونَهُ

"And your right upon them is that they do not allow anyone whom you dislike to sit on your cushion."[3] Al-Nawawi stated,

> The preferred interpretation is that permission should not be given to anyone to enter your houses and sit on your

[1] See *Tafseer ibn Katheer*, vol. 3, p. 531.
[2] *Majmoo al-Fatawaa*, vol. 32, p. 281.
[3] Recorded by Muslim in his *Sahih* (#1218), The Book on the Pilgrimage, Chapter on the pilgrimage of the Prophet (peace be upon him); it is part of the farewell speech of the Prophet (peace be upon him).

> furnishings whom he [the husband] dislikes. This is regardless if the one given permission is a non-related man, a woman or one of the wife's relatives. The prohibition extends to all of them. The wife is not to permit any man, woman, relative or otherwise [to enter into her husband's house] unless she knows or believes that the husband does not dislike that person [to enter].[1]

Sahih Muslim also contains the hadith of Abu Hurairah who narrated that the Messenger of Allah (peace be upon him) said,

لا تَأْذَنْ فِي بَيْتِهِ وَهُوَ شَاهِدٌ إِلاَّ بِإِذْنِهِ

"[The wife] is not to allow anyone into his house while he is present except with his permission."[2] In *al-Fath*, ibn Hajr made the following comments:

> The condition, "while he is present," is not meant to imply anything to the contrary but is simply stated as what is the normal case. In other words, simply because the husband is not present does not mean that the wife is now allowed to permit anyone she wishes to enter his house. In fact, the prohibition in that case is even more stressed based on other confirmed hadith with prohibit her from allowing those to enter while he is not present.[3]

Al-Imam al-Nawawi wrote that this indicates that she cannot usurp the authority of the husband by permitting anyone to enter into his house except with his permission. This is applied to those cases where the wife does not know of the husband's non-objection to a specific person. If she knows that her husband is pleased with a person, there is no harm upon her [if she allows that person to enter his house], such as when it was the custom of the husband to allow his guests to enter a

[1] See *Sharh Saheeh Muslim*.
[2] *Saheeh Muslim* (#1026), the Book of Zakat, Chapter on what a slave can spend from the wealth of his master.
[3] *Fath al-Baari*, vol. 9, p. 296.

specific part of the house, regardless of whether he is present or absent. In that case, she is not in need of specific permission from the husband to allow them to enter.

(5) Serving the Husband

From the rights of the husband upon the wife is that she must serve him in such matters as bringing up the children, preparing his food, taking care of the clothes and so forth. This is proper as a result of his being in charge of the affairs and it is one of the goals of a sound marriage. In this way, the structural make-up of the household and the affairs of the household will be according to what is natural. The wife should neither disdain nor be too proud to serve her husband if she has the ability to do so and he wants that from her.

In the *Sahih*s of al-Bukhari and Muslim it states that Faatimah, the daughter of the Messenger of Allah (peace be upon him), went to the Prophet (peace be upon him) to complain about the harm her hand was receiving from the stone handmill. She had heard that the Prophet (peace be upon him) had just received some slaves. However, she did not find the Prophet (peace be upon him), so she told Aishah about the matter and when the Prophet (peace be upon him) came, Aishah informed him about Fatima's request. Ali ibn Abu Taalib said, "So he came to us when we had gone to bed. We were going to get up for him but he said, 'Stay in your places.' He came and sat between us and I could feel the coldness of his feet upon my stomach. He said, 'Shall I not guide you to something that is better than what you have asked for? When you go to your beds, extol Allah's perfection thirty-three times [by saying *subhaanallah*], praise Allah thirty-three times and extol Allah's greatness thirty-four times. That is better for you than a servant.' I never abandoned that practice afterwards." He was asked, "Not even on the night of the Battle of Siffeen?" He replied, "Not even on the night of the Battle of Siffeen."[1]

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[1] *Sahih al-Bukhari* in a number of places, including (#5361), the Book on Expenditures, Chapter on the wife working in the house of her husband; *Sahih Muslim* (#2182), Book on Greeting, Chapter on the permissibility of giving a lift to a

It has been authentically narrated from Asmaa bint Abu Bakr al-Siddeeq that she said, "I used to serve al-Zubair ibn al-Awwaam— her husband— concerning all of the matters within the house. He used to have a horse that I used to take care of and give it its fodder. I would feed the horse and draw water for it." She would also sew the waterbucket and prepare the dough. She used to carry the dates upon her head from [al-Zubair's] land which was about two miles away from her house.[1]

Shaikh al-Islam ibn Taimiyah said:

> The scholars have disputed over whether or not it is obligatory upon her [the wife] to serve him [the husband] in things like taking care of the household items, serving the food, drink, bread, flour, food for his slaves and his animals, such as preparing fodder for his horse and so on. Some say that such service is not obligatory. That opinion is weak, like the weakness of those who say that it is not obligatory upon him to have intimacy and sexual relations with her. This [not serving the husbands] means she is not treating him in a good manner. In fact, the companion on a journey, who is similar to a person and his mate in a household, if he does not help in doing what is needed has not treated his companion in the proper way.
>
> It is said— and it is correct— that such service is obligatory. The husband is described as her master [or lord, *sayyid*] in the Book of Allah.[2] She is like his captive as described in the sunnah of the Messenger of Allah

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non-related woman if she is exhausted on the road. Siffeen is a place on the banks of the Euphrates wherein took place the famous battle between Ali and Muawiyah (may Allah be pleased with both of them) in the year 37 A.H. (*Mujam al-Buldaan*, vol. 3, p. 414).

[1] See *Sahih al-Bukhari* (#5224), *Sahih Muslim* (#2182), *Musnad al-Imaam Ahmad*, vol. 6, pp. 437 and 452.

[2] He is referring to the verse, "They both found her master at the door" (*Yoosuf* 25).

(peace be upon him).[1] It is obligatory upon the captive and the slave to serve. That is what is well-known and accepted. Then there are some who say that light service is what is obligatory upon her while others say that the service that is customary and accepted is what is obligatory upon her. [The latter opinion] is the correct opinion. She must serve her husband according to what is customary for someone like her with respect to someone like him. The situation differs under different circumstances. The serving by the bedouin woman is not like that by the city woman. The serving by the strong woman is not like that by a weak woman.[2]

Ibn al-Qayyim wrote:

Those who say that her serving [her husband] is obligatory cite as an argument the fact that such was the customary practice among those whom Allah addressed with His speech. Furthermore, the dower is in exchange for the right to sexual intercourse. But each spouse fulfills his [or her] desire with the other. Therefore, Allah has obliged the man to maintain her, clothe her and give her housing in exchange for being able to enjoy her and for her serving him. And this has been the normal custom among the spouses. And again, the contracts that are left

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[1] He is referring to the hadith which states, "Fear Allah with respect to women for they are like captives among you." Recorded by al-Tirmidhi (#1163), the Book on Fostering, Chapter on the right of a woman over her husband, ibn Maajah (#1851), Ahmad, vol. 5, pp. 72-73 and others. [The narration in al-Tirmidhi begins with the words, "I advise you to treat women well." According to al-Albaani, this hadith is *hasan*. See al-Albaani, *Saheeh Sunan al-Tirmidhi*, vol. 1, p. 341. Many commentators do not go as far as ibn Taimiyah in interpreting said hadith. For example, the Maliki jurist Abu Bakr ibn al-Arabi stated, in his commentary to *Sunan al-Tirmidhi*, that the wife is a captive only in the sense that she is not allowed to leave her house without her husband's permission and she is not free to spend of his wealth without his permission. See Abu Bakr ibn al-Arabi, *Aaridhat al-Ahwadhi bi-Sharh Saheeh al-Tirmidhi* (Beirut: Dar al-Kutub al-Ilmiyyah, n.d.), vol. 5, p. 108.—JZ]

[2] See *Majmoo al-Fataawa*.

> unconditional are specified by what is customarily the practice. The customary practice is that the wife serves the husband and takes care of the internal affairs of the house. They [who say that the wife is not obliged to serve the husband] argue that the actions of Faatimah and Asmaa were voluntary acts and acts of goodness. However, this argument is refuted by noting that Faatimah was complaining about the effects of her acts of serving her husband. The Prophet (peace be upon him) did not tell Ali, "She does not serve you, but you must do it." The Prophet (peace be upon him) was never partial toward anyone in his judgments. When he saw Asmaa and the fodder was upon her head and al-Zubair was with her [meaning her husband], he [the Prophet (peace be upon him)] did not say to him, "She does not have to serve you and you are committing wrong toward her." In fact, he approved of the service they were doing and he approved of what the other Companions were doing with respect to their wives serving them, although he knew that some of them were displeased with that while others were pleased. This is a matter concerning which there is no doubt.[1]

However, this does not mean that the husband does not assist his wife or do some of the chores if he can during some times when his wife is in need of that. In fact, the husband doing some of those chores and helping his wife when she is in need is evidence of a noble character. It is also part of dealing with his wife in a kind and good manner.

For that reason, the Messenger of Allah (peace be upon him) was never too proud— and he was the leader of the Nation and the one of best character— to perform some chores in order to help his wives. This is indicated in the narration from the Mother of the Believers Aishah (may Allah be pleased with her) who said, when she was asked about what the Messenger of Allah (peace be upon him) used to do in

[1] See *Zaad al-Maad*, vol. 5, pp. 187-188.

the house, "He would help his wife— meaning serve his wife— but when the time for prayer came, he would leave to the prayer."[1]

When Ruqayyah, the daughter of the Messenger of Allah (peace be upon him), fell ill, Uthmaan ibn Affaan stayed behind from the Battle of Badr in order to tend to her and look after her.[2] Furthermore, the husband should take into consideration the circumstances of his wife and he should not overburden her or make her do things that are beyond her capability.

(6) Protecting His Honor, Children and Wealth

The wife must protect her chastity and be careful about and avoid anything that might stain her honor and hurt her reputation. She should not to do anything that demonstrates a lack of religiousness or a shortcoming in modesty. She must be careful about exposing herself and displaying her beauty to anyone other than those who are allowed to see her.

If she is lacking with respect to any of those matters, then she is not protecting her husband's honor according to the amount of that shortcoming. Worse than all of that is where the married woman has a child through illegal sexual intercourse and attributes that child to her husband— and we ask Allah to protect us. The Prophet (peace be upon him) gave a very strong and severe warning concerning such an act. He stated,

أَيُّمَا امْرَأَةٍ أَدْخَلَتْ عَلَى قَوْمٍ مَنْ لَيْسَ مِنْهُمْ فَلَيْسَتْ مِنَ اللَّهِ فِي شَيْءٍ
وَلَنْ يُدْخِلَهَا اللَّهُ جَنَّتَهُ

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[1] Recorded by al-Bukhari (#676), Book on the Call to Prayer, Chapter on the one who is helping his wife and the prayer is established so he leaves; and (#5363), Book on Expenditures, Chapter on the man serving his wife; and (6039) Book on Manners, Chapter on how the man should be while he is with his wife.

[2] See *Sahih al-Bukhari* (#3698).

"Any woman who brings to a people one who is not from them [that is, by illegal sexual intercourse] will have nothing to do with Allah and Allah will not enter her into Paradise."[1]

Similarly, she should protect her husband with respect to his children by bringing them up in a good way and teaching them the best characteristics and most beautiful manners. She should also protect his wealth by not spending it in ways that he does not want or approve. She also should not burden him by getting him to spend on things that are not needed or that have some aspect of waste or extravagance to them.

The Prophet (peace be upon him) praised the women of the Quraish. He said about them,

أَحْنَاهُ عَلَى وَلَدٍ فِي صِغَرِهِ وَأَرْعَاهُ عَلَى زَوْجٍ فِي ذَاتِ يَدِهِ

"They are the most merciful (*ahnaah*) to the child when he is young and the most tending to the husband with respect to what he owns."[2] *Ahnaah* means they are compassionate. The woman who is *haaniyah* is the one who brings up her child in a proper way and if the father dies, she does not remarry but spends her time looking after the children. "Most tending to the husband" means that she guards and protects his wealth, his trust concerning it, and she protects it for him and does not waste his money with any frivolous spending.

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[1] Recorded by Abu Dawood (#2263), Book on Divorce, Chapter on severe warning concerning denying one's child; al-Nasaai, vol. 6, p. 179, Book on Divorce, Chapter on severe warning concerning denying one's child; al-Daarimi, vol. 2, p. 153, Book on Marriage, Chapter on one who denies his child while he recognizes him to be his child. Ibn Hibbaan (#1335 from *Muwaarid*) concerned it *sahih* and its chain is excellent. [According to al-Albaani, this hadith is weak. See al-Albaani, *Dhaeef al-Jaami al-Sagheer*, p. 327.—JZ]

[2] Recorded by al-Bukhari (#5082), Book on Marriage, Chapter on who is to be married and which women are best.

(7) Being Thankful to the Husband, Not Denying His Virtues and Treating Him in a Good Manner

This aspect is proven by what is recorded in the two *Sahihs* from ibn Abbaas who stated that the Prophet (peace be upon him) stated during the address he gave after a solar eclipse, "I saw the Hell-fire and I have never seen any sight like what I have seen today. I saw that most of its inhabitants were women." They said, "Why, O Messenger of Allah?" He said, "Due to their lack of gratitude." They said, "Are they ungrateful toward Allah?" He said, "They are ungrateful to their husbands and they are ungrateful with respect to the goodness done to them. If one of you were to do good to one of them his whole life and then she sees from you something she does not like, she will say, 'I have never seen any good from you.'"[1]

In a narration in *Musnad Ahmad* with a *hasan* chain, it states that the Prophet (peace be upon him) said, "Most of who I saw therein were women who when confided in spread it about, when asked are stingy and when given are not thankful."[2]

In general, those are the rights of the husband. They can be all summed up in one general statement: The rights of the husband are that he be treated in a good and polite manner and that he does not hear, see or find anything in his wife except all that is good and beautiful.

The Rights of the Wife

The wife also has rights over her husband. Some of these rights are financial while others are not financial. The financial rights include the dower, discussed earlier, and maintenance, which shall be explained shortly by the help of Allah.

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[1] Recorded by al-Bukhari (#29), Book on Faith, Chapter on being ungrateful to husbands and *kufr* which is less than [the greater] *kufr* [that takes one out of the fold of Islam]; and (#5197), Book on Marriage, Chapter on being ungrateful to the husband; *Sahih Muslim* (#884).

[2] See *Fath al-Baari*, vol. 2, pp. 540-542.

The non-financial rights of the wife include the following:

(1) Treating the Wife in a Kind and Good Manner

"Treating the wife in a kind and good manner" actually comprises all of the rights. If other rights are mentioned after this one, it is a case of mentioning a particular aspect in order to give it special attention after it has already been touched upon by a general term.

"Treating in a kind and good manner" implies accompanying them in a good way, keeping harm from them, not delaying in fulfilling their rights when one has the ability to fulfill them and demonstrating pleasure and happiness with them.

The basis for this is the statement of Allah,

وَعَاشِرُوهُنَّ بِالْمَعْرُوفِ

"And treat them in a good and kind manner" (*al-Nisaa* 19). Allah also says,

وَلَهُنَّ مِثْلُ الَّذِي عَلَيْهِنَّ بِالْمَعْرُوفِ

"And they have rights similar to those over them according to what is reasonable" (*al-Baqarah* 228). Ibn Abbaas stated, "I love to beautify myself for the wife in the same way that I love for her to beautify herself for me because Allah has said, 'And they have rights similar to those over them according to what is reasonable' (*al-Baqarah* 228)."

Ibn Katheer stated in his commentary to the words, "And they have rights similar to those over them according to what is reasonable,"

> That is, make the words you say to them good, make your deeds and behavior toward them good according to your ability. In the same way that you would like that from them, you should behave in that way toward them. As Allah says, "And they have rights similar to those over them according to what is reasonable." And the Prophet

(peace be upon him) said, "The best of you is the best to his family and I am the best to my family."[1]

Included in good behavior is being kind and gentle with them and not harming them. One should also overlook their shortcomings as long as it is not something related to the law of Allah. The Prophet (peace be upon him) alluded to this behavior when he said,

لا يَفْرَكْ مُؤْمِنٌ مُؤْمِنَةً إِنْ كَرِهَ مِنْهَا خُلُقًا رَضِيَ مِنْهَا آخَرَ

"A believing man should not hate a believing woman since if he dislikes one of her characters, he is pleased with another."[2]

Also included in this category is that the man should not hurt his wife with either his actions or his speech. The Prophet (peace be upon him) was asked by one of the Companions, "What is the right of our wives upon us?" He replied,

أَنْ تُطْعِمَهَا إِذَا طَعِمْتَ وَتَكْسُوَهَا إِذَا اكْتَسَيْتَ وَلا تَضْرِبِ الْوَجْهَ وَلا تُقَبِّحْ وَلا تَهْجُرْ إِلاَّ فِي الْبَيْتِ

"It is that when you eat, you feed her; when you get clothing for yourself, you get clothing for her; do not strike the face; do not swear at her; and do not boycott her except in the house."[3]

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[1] Recorded by al-Tirmidhi (#3892), Book on Virtues, Chapter on the virtues of the wives of the Prophet (peace be upon him); al-Daarimi, vol. 2, p. 159; and graded *sahih* by ibn Hibbaan (#1312).

[2] Recorded by Muslim (#1469), Book on Breastfeeding, Chapter on advice concerning women.

[3] Recorded by Abu Dawood (#2142), Book on Marriage, Chapter on the right of the woman upon her husband; ibn Maajah (#1850), Book on Marriage, Chapter on the right of the woman upon the husband; Ahmad in *al-Musnad*, vol. 4, p. 447 and vol. 5, pp. 3-5; and al-Haakim graded it *sahih* in *al-Mustadrak*, vol. 2, p. 188.

(2) Teaching Her the Matters of the Religion and Supporting Her in Acts of Obedience to Allah

In essence, this means that he teaches her if she is ignorant and he reminds her if she forgets and, finally, he supports and helps her when she remembers [and does what should be done]. The most important matter [to learn] is the proper belief in the oneness of Allah (*tauheed*) and the beliefs and practices of the early generations of Muslims, as well as what goes along with the acts of worship and behavior.

Allah has stated in the Quran,

يَاأَيُّهَا الَّذِينَ آمَنُوا قُوا أَنفُسَكُمْ وَأَهْلِيكُمْ نَارًا وَقُودُهَا النَّاسُ وَالْحِجَارَةُ

"O you who have believed, protect yourselves and your families from a fire whose fuel is people and stones" (*al-Tahreem* 6). Ibn Umar narrated that the Messenger of Allah (peace be upon him) said,

وَالرَّجُلُ رَاعٍ فِي أَهْلِهِ وَهُوَ مَسْئُولٌ عَنْ رَعِيَّتِهِ

"Man is responsible over his family and he will be asked about his responsibility."[1]

This also includes keeping the wife from having bad manners and characteristics, such as going out in public while displaying herself and everything that damages her modesty or lessens her faith. He must feel honor with respect to her and protect her and guard every aspect that protects her dignity.

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[1] Part of a hadith recorded by al-Bukhari (#5188), Book on Marriage, Chapter "Protect yourselves and your families from a fire," as well as in other places in his *Sahih*; Muslim (#1829), Book on Governmental Authority, Chapter on the virtues of a just ruler.

(3) Maintaining Her Chastity

Women also have natural desires. It is therefore a must upon the husband to comply with them so that she will keep herself from doing anything forbidden. This is part of the completeness of treating her in a good manner. The concern of the Lawgiver for the chastity of the wife can be seen in the fact that Allah has set a specific time limit for the one who swears not to have intercourse with his wife and if the man does not have intercourse with his wife before that time limit expires, the two will be separated. Allah says in the Quran,

لِلَّذِينَ يُؤْلُونَ مِنْ نِسَائِهِمْ تَرَبُّصُ أَرْبَعَةِ أَشْهُرٍ فَإِنْ فَاءُوا فَإِنَّ اللَّهَ غَفُورٌ رَحِيمٌ

"Those who take an oath not to have sexual intercourse with their wives must wait for four months, but if they return [during this period], then Allah is forgiving, merciful" (*al-Baqarah* 226). This indicates that it is obligatory to do that act that will keep the wife chaste. The longest period without that act is what is mentioned by Allah in that verse.

The Prophet (peace be upon him) instructed Uthmaan ibn Madhoon as to this right of his wife upon him when he was cutting himself off from them for the purposes of worship,

وَلِأَهْلِكَ عَلَيْكَ حَقًّا

"Your wife has a right upon you."[1]

The Muslim must do his best to take care of this aspect and give his wife her right.

It is narrated that Kaab ibn Soor was sitting with Umar ibn al-Khattaab (may Allah be pleased with him) when a woman came and said, "O Commander of the Faithful! I have never seen any man more virtuous than my husband. By Allah, he spends the night in prayer and

[1] Part of a hadith recorded by al-Bukhari in his *Sahih* (#1977), Book on Fasting, Chapter "Your wife has a right upon you"; Muslim (#1159), Book on Fasting, Chapter on the prohibition of continual fasting.

his day in fasting." He asked Allah to forgive her and he praised her. The woman was shy so she stood and left. Kaab said, "O Commander of the Faithful, won't you assist the woman with respect to her husband?" Umar replied, "Why?" He said, "She came to you complaining about him. If that is his situation with respect to acts of worship, when does he ever have any free time for her?" Umar sent someone to fetch her husband and he came. Umar said to Kaab, "Decide the matter for them for you understood from their affair what I did not understand." He said, "In my opinion, she is like a woman who has three other co-wives and she is the fourth. So he may have three days and nights for worship and one day and night for her." Umar said, "By Allah, your first opinion is not more amazing to me than your second view [just now]. Go and you shall be the judge for the people of Basrah."[1]

(4) Financially Maintaining the Wife

Maintaining the wife is a necessary right of the wife. It is inclusive of food, clothing and housing according to the situation of the husband and what is within his means. Allah has made it obligatory in His statement,

وَعَلَى الْمَوْلُودِ لَهُ رِزْقُهُنَّ وَكِسْوَتُهُنَّ بِالْمَعْرُوفِ لا تُكَلَّفُ نَفْسٌ إِلاَّ وُسْعَهَا

"The father of the child shall bear the cost of the mother's food and clothing on a reasonable basis. No person shall have a burden laid on him greater than he can bear" (*al-Baqarah* 233). In his commentary to this verse, ibn Katheer wrote, "That is, it is upon the father of the child to spend upon the mothers and clothe them according to what is reasonable, in other words, according to what is customary for people

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[1] See *al-Musannaf*, vol. 7, p. 148, by Abdul Razzaaq, Book on Divorce, Chapter on the right of the woman upon her husband; *Tabaqaat ibn Saad*, vol. 7, p. 52. Ibn Qudaamah related this incident in *al-Mughni*, vol. 10, p. 238, and said, "This incident became well-known and no one objected to it. Hence, it became like a consensus."

like them, without extravagance or miserliness, according to his ability with respect to his being of means, moderate wealth or poverty."[1]

It is also confirmed that the Prophet (peace be upon him) said,

فَاتَّقُوا اللَّهَ فِي النِّسَاءِ فَإِنَّكُمْ أَخَذْتُمُوهُنَّ بِأَمَانِ اللَّهِ وَاسْتَحْلَلْتُمْ فُرُوجَهُنَّ بِكَلِمَةِ اللَّهِ .. وَلَهُنَّ عَلَيْكُمْ رِزْقُهُنَّ وَكِسْوَتُهُنَّ بِالْمَعْرُوفِ

"Fear Allah with respect to women. You have taken them by the trust with Allah and have made their private parts permissible by the word of Allah... Their rights upon you are that you provide for them and clothe them according to what is right and customary."[2]

Al-Bukhari and Muslim recorded that Hind, the wife of Abu Sufyaan (may Allah be pleased with both of them) came to the Prophet (peace be upon him) and said, "O Messenger of Allah, Abu Sufyaan is a miserly man. He does not give me enough to maintain myself and my child. So I take from his wealth without his knowledge. Is there any sin upon me for that?" He replied,

خُذِي مِنْ مَالِهِ بِالْمَعْرُوفِ مَا يَكْفِيكِ وَيَكْفِي بَنِيكِ

"Take from his wealth according to what is customary as will suffice for you and for your child."[3]

The above indicate that it is obligatory upon the husband to spend upon his wife what is sufficient for her and her children according to what is customary and correct. It also indicates that the wife may take from her husband's wealth if he refuses to give her what she needs, even if she takes it without his knowledge as long as it is the customary, acceptable amount.

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[1] See *Tafseer ibn Katheer*, vol. 1, p. 304 (Daar al-Salaam Publications, 1413 A.H.).

[2] Recorded by Muslim in his *Sahih* (#1218), Book on the Pilgrimage, Chapter on the pilgrimage of the Prophet (peace be upon him).

[3] Recorded by al-Bukhari (#5364), Book on Expenditures, Chapter on if the husband does not spend on his wife, she may take from his wealth what is sufficient for herself and her child according to what is customary and without his knowledge; Muslim (#1714), Book on Judgments, Chapter on the judgment for Hind.

However, the wife must not overburden her husband with numerous requests. She should be satisfied and happy with little, especially if her husband is in straitened circumstances and has little wealth. It is confirmed that the Prophet (peace be upon him) said,

إن أول ما هلك بنو إسرائيل أن امرأة الفقير كانت تكلفه من الثياب أو الصيغ ما تكلفه امرأة الغني

"The first thing that destroyed the Tribes of Israel is when the wife of a poor person would burden him for clothing or fashion like the way the wife of a rich man would burden him."[1] It is also confirmed that the Prophet (peace be upon him) said,

انظروا إلى من هو أسفل منكم ولا تنظروا إلى من هو فوقكم فإنه أجدر أن لا تزدروا نعمة الله عليكم

"Look to one who has less than you and do not look at one who has more than you as this is more likely keep you from finding fault with the blessings of Allah upon you."[2] This is with respect to worldly matters. With respect to aspects related to the religion, one should look at one who is better than him in order to be encouraged to do more good deeds and get closer to Allah.

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[1] Recorded by ibn Khuzaimah in *al-Tauheed* (#208). See the complete discussion of its chains in *Silsilat al-Ahaadeeth al-Saheehah*, vol. 2, p. 115, #951, by Shaikh al-Albaani.

[2] Recorded by al-Bukhari (#6490), Book on Heart-Softening Hadith, Chapter to look to one who has less than you; Muslim (#2963), Book on Abstaining from this World, and the wording is his.

Common Rights

There are some rights in which both spouses share and which become obligatory due to a sound marriage contract. These include the following:

(1) Having the Right to Enjoy One Another

If the marriage is performed between the two spouses and the proper conditions of having the wife go to her husband and his ensuring that he will provide her housing and maintenance are met, and there are no preventive factors such as them being in the state of pilgrimage, it is allowed for the spouses to enjoy each other [physically] in the ways allowed by Islamic law. This, in fact, is one of the purposes of marriage. Allah says in the Quran,

أُحِلَّ لَكُمْ لَيْلَةَ الصِّيَامِ الرَّفَثُ إِلَى نِسَائِكُمْ هُنَّ لِبَاسٌ لَكُمْ وَأَنْتُمْ لِبَاسٌ لَهُنَّ

"It is permissible for you to have sexual intercourse with your wives during the nights of [days of] fasting. They are clothing for you and you are clothing for them" (*al-Baqarah* 187).

The wife is a source of repose and comfort for her husband and he is the same for her. Allah says,

وَمِنْ آيَاتِهِ أَنْ خَلَقَ لَكُمْ مِنْ أَنفُسِكُمْ أَزْوَاجًا لِتَسْكُنُوا إِلَيْهَا وَجَعَلَ بَيْنَكُمْ مَوَدَّةً وَرَحْمَةً

"And of His signs is that He created for you mates from among yourselves that you may find tranquillity in them; and He placed between you affection and mercy" (*al-Room* 21).

(2) Establishing the Rights of Inheritance between the Spouses

If a proper marriage contract is completed and then one of the spouses dies before his or her spouse [while they were still married], the right of inheritance is established between them, as long as there are no legal factors to prevent such inheritance. Allah says in the Quran,

وَلَكُمْ نِصْفُ مَا تَرَكَ أَزْوَاجُكُمْ إِنْ لَمْ يَكُنْ لَهُنَّ وَلَدٌ فَإِنْ كَانَ لَهُنَّ وَلَدٌ فَلَكُمُ الرُّبُعُ مِمَّا تَرَكْنَ مِنْ بَعْدِ وَصِيَّةٍ يُوصِينَ بِهَا أَوْ دَيْنٍ وَلَهُنَّ الرُّبُعُ مِمَّا تَرَكْتُمْ إِنْ لَمْ يَكُنْ لَكُمْ وَلَدٌ فَإِنْ كَانَ لَكُمْ وَلَدٌ فَلَهُنَّ الثُّمُنُ مِمَّا تَرَكْتُمْ مِنْ بَعْدِ وَصِيَّةٍ تُوصُونَ بِهَا أَوْ دَيْنٍ

"And for you is half of what your wives leave if they have no child. But if they have a child, for you is one fourth of what they leave, after any bequest they have made or debt. And for them is one fourth if you leave no child. But if you leave a child, then for them is an eighth of what you leave, after any bequest you made or debt" (*al-Nisaa* 12).

(3) Treating Each Other in a Good and Kind Manner

This was discussed previously.

(4) Establishing the Forbiddance of Marriage to Relatives

It is forbidden for the husband to ever marry the mother of his wife, no matter how far back one goes [such as the grandmother, great grandmother and so on]. Similarly, he cannot marry her daughter [no matter how far down one goes, such as the granddaughter and so forth]. It is also forbidden for him to be married to both his wife and at the same time be married to her sister, paternal aunt, maternal aunt or niece no matter how far removed. Similarly, it is forbidden for the woman to

marry her husband's father or son, no matter how far one goes in the lineage.

These are some of the rights of the spouses and some of their mutual rights presented in a general fashion. It was not the purpose to present all of their rights but it was simply intended to state their different types and the founding principles. What we have mentioned indicate those that we did not mention.

Whatever is correct in any of the above is from the One, the Bountiful. Whatever is incorrect is from my own soul and from Satan, and Allah and His Messenger are free and innocent of it.

Allah is the One to ask to make what I have written beneficial for me, my parents and the Muslims as a whole. He is also asked to make my scale heavier due to it on the Day of Resurrection. He, perfect and exalted be He, is the best to ask and the most generous to put one's hopes in. And may the peace and blessings of Allah be upon the servant of Allah and His Messenger, our Prophet Muhammad, and upon all his family and Companions.

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[1] [The references have been rearranged in order to present them in a manner more compatible with styles found in works in English.—JZ]

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